

TITLE 12
SOUTHERN UTE INDIAN TRIBAL CODE
RANGE CODE
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TITLE 12
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RANGE CODE

Article 1. GENERAL PROVISIONS

- 12-1-101. Purpose.** It is the purpose of this Range Code to aid the Southern Ute Indian Tribe in achieving the following objectives:
- (1) To preserve, through proper grazing management, the rangeland resources of the Southern Ute Indian Tribe.
 - (2) To increase the productivity and health of Tribal rangelands for both wildlife and livestock and to promote proper use by Tribal members for income and employment.
 - (3) To manage Tribal rangelands consistent with the current Natural Resources Management Plan and subsequent revisions.
 - (4) To provide for the administration of livestock grazing privileges in a manner that will yield the highest return to the Tribe and to its membership consistent with sustained yield land management principles.
- 12-1-102. Jurisdiction.** This Range Code will govern the allocation and use of rangelands on the Southern Ute Indian Reservation. The Southern Ute Indian Tribal Code (SUITC), Title 13 – *Wildlife Conservation Code*, governs wildlife conservation within the exterior boundaries of the reservation and the terms of Title 13 supersede any conflicting provisions in the Range Code.
- 12-1-103. Scope and Applicable Law.** This Range Code shall govern the allocation and administration of designated range units and other rangelands on the Reservation. In instances where definite procedures are not outlined in this Code, the regulations in Title 25 C.F.R. Part 166 and the *American Indian Agricultural Resource Management Act* (25 U.S.C. §3701, *et seq.*), as amended, shall apply.
- 12-1-104. Definitions.**
- (1) **AAHO.** The Administrative Appeals and Hearings Office of the Tribe.
 - (2) **Allocation of Grazing Privileges.** Allocation means the apportionment of grazing privileges with or without competitive bidding including the

determination of who may graze livestock, the number and kind of livestock, and the time and place where such livestock shall be grazed.

- (3) **Animal Unit.** A standard used in establishing the relative grazing impact of different kinds and classes of livestock and wildlife. An animal unit is considered to be one mature (1000 pound) cow or equivalent as follows:
 - (a) Cattle:
 - (i) 1.0 cow, with or without a calf
 - (ii) 1.5 bull, mature
 - (iii) 0.7 yearling
 - (b) Horses and mules:
 - (i) 1.5 mature
 - (ii) 0.75 yearling
 - (c) Sheep and goats:
 - (i) 0.2 mature
 - (ii) 0.15 yearling
 - (d) Domestic Wildlife:
 - (i) 1.5 bison bull
 - (ii) 1.0 bison cow
 - (iii) 0.7 bison yearling
 - (iv) 0.2 deer
- (4) **Animal Unit Month.** The amount of feed or forage required by an animal unit for one month, generally regarded as 750 pounds of air-dried forage.
- (5) **Annual Permittee Plan.** A plan written prior to each grazing season describing actions to be taken by the permittee. The plan includes, among other things, on and off dates, rotations, improvements, and maintenance.
- (6) **AUM.** Animal Unit Months.

- (7) **Base Property.** Property owned or controlled by the permittee that is capable of producing pasture or feed for the permitted livestock for the duration of the grazing permit. Base property may only be grazed by the permitted livestock. In addition, this property must be available and used by the permitted livestock during the non-permitted period.
- (8) **Carrying Capacity.** The number of AUM's a designated unit of land will support, generally determined by range analysis performed by Tribal range personnel. Carrying capacity takes into consideration the implementation of Tribal objectives and programs requiring range units to support wildlife as well as permitted livestock with wildlife receiving primary consideration.
- (9) **Code.** The Range Code.
- (10) **Department.** The Department of Natural Resources
- (11) **Director.** The Director of the Department of Natural Resources.
- (12) **Grazing Year.** For administrative and billing purposes, the grazing year shall commence on the first day of January and end on the last day of December of the same year. This does not mean that year long or continuous grazing will be tolerated, but rather that each permittee shall abide by the terms and seasons of use stated in an individual grazing permit.
- (13) **Immediate Family.** Immediate family is: wife, husband, son, daughter, stepchild, or foster child.
- (14) **Non-use.** The act of stocking a range unit below the permitted number of livestock. May be approved or unapproved non-use.
- (15) **Permittee.** Southern Ute Tribal member(s) named in the grazing permit.
- (16) **Range Unit.** A tract of land designated as a management unit for administration of grazing. Range units are located on Tribal trust land.
- (17) **Reservation.** The Southern Ute Indian Reservation.
- (18) **Superintendent.** The Bureau of Indian Affairs Superintendent for the reservation.
- (19) **Tribal Land.** For the purposes of this Code, means Tribal trust land, Tribal fee land, and Indian allotments within the exterior boundaries of the

reservation, which includes any right-of-way bounded on both sides by these lands.

- (20) **Tribal Livestock Operator.** A Tribal member who is engaged in the business of raising livestock for personal or family income and is 18 years of age or older.
- (21) **Tribal Member.** A person who is an enrolled member of the Tribe.
- (22) **Tribal Range or Rangeland.** Tribally-owned or controlled lands managed for natural resource conservation, wildlife, or livestock grazing.

12-1-105. Application. The Tribe has chosen to apply the Range Code to the lands and properties described in this Code solely for administrative purposes. The Tribe may amend the Code to include additional lands and properties subject to the Tribe's jurisdiction in the future. Nothing in this Code is intended to restrict, amend, or otherwise limit the Tribe's jurisdiction or sovereign powers within the exterior boundaries of the reservation.

12-1-106. Permitted Livestock Numbers.

- (1) **Carrying Capacity and Season of Use.** Subject to concurrence of the Superintendent, the Director, after consultation with the Range Division Head, shall prescribe the maximum number of livestock that may be grazed in each range unit and the season or seasons and duration of use.
- (2) **Adjustments.** Carrying capacity shall be reviewed on a continuing basis and adjusted as range conditions warrant. The carrying capacity shall be determined separately for each range unit.
- (3) **Grazing Restrictions.** The amount of grazing permitted on range units will not exceed the amount authorized by the Director. The Tribal Council may further restrict the amount of grazing permitted on an emergency basis, such as due to drought or fire.
- (4) **Annual Review.** The Director will direct staff to conduct an annual re-evaluation of Reservation grazing capacity to make necessary changes for the protection and sound management of the range units.

12-1-107. Range Units.

- (1) **Establishing Boundaries.** Range unit boundaries are recommended by the Director and established by the Tribal Council, subject to concurrence of the Superintendent.

- (2) **Number of Range Units.** There are currently 18 range units on the Reservation. The Tribal Council may change the number of units by resolution.
- (3) **Change of Range Unit Boundaries.** Range unit boundaries may be changed, with approval of the Tribal Council, when the Director determines that the boundary change is necessary for the protection and sound management of range resources. Range unit boundaries may be changed only once during the grazing year per unit and will become effective at the beginning of the following grazing year.
- (4) **Hearing on Boundary Change.** Permittees using range units that are scheduled for boundary changes will be informed of the reasons for the change and will be afforded an opportunity for a hearing at their request. Permittees shall file an appeal no later than 15 calendar days after the notice date. The hearing shall be conducted by the AAHO. In considering that appeal, the Hearing Officer shall not substitute his judgment for that of the Director.
- (5) **Establishing Additional Range Units.** Tribal Council may create additional range units within Tribal owned or controlled lands.

12-1-108. Grazing Permits.

- (1) Grazing on all unallotted lands of the Tribe that are not included in a land assignment or a short-term or 5-year agricultural lease or permit shall only be authorized by a valid permit issued pursuant to this Code.
- (2) Applicants shall apply for a grazing permit on a form provided by the Department. The Range Division Head and Director will review all applications. Applications shall be considered on a "first come, first served" basis and are dependent on the availability of range and forage. In the event an applicant is denied a permit based on his application, appeal can be made to the AAHO within 15 calendar days from the date of the decision. In considering that appeal, the Hearing Officer shall not substitute his judgment for that of the Director.
- (3) Tribal members, Southern Ute Tribal enterprises, and associations of tribal members shall have first preference in allocation of Reservation grazing privileges. Applicants must be 18 years of age and provide proof that they meet the base property requirement as defined in §12-1-104(7).
- (4) The maximum term of a grazing permit is 5 years. The Department shall only renew a grazing permit upon application of permittees who have adhered to the terms and conditions of their permit and this Code.

- (5) All grazing permits issued within the same 5 year term shall have the same expiration date,
- (6) **Grazing Permit Modification.**
 - (a) Each permit issued for a term in excess of one grazing year shall be reviewed annually by the Range Division Head to determine if the permit needs to be modified.
 - (b) Permittees may request modification of their grazing permits by submitting a written request to the Range Division Head no later than 45 days prior to the beginning of their regular grazing season. Grazing permit modifications must be approved by the Director. Requested modifications may include:
 - (i) an increase or decrease in number of livestock permitted;
 - (ii) alteration of season of use;
 - (iii) complete or partial non-use for personal convenience in which case;
 - (1) permittees must apply for approval of non-use from the Director; and
 - (2) after two years of approved personal convenience non-use, the permits must be fully stocked or the number of permitted AUMs shall be permanently reduced by the amount of non-use; or
 - (iv) a change in the kind of livestock.
- (7) **Annual Validation of Permit.** Validation includes:
 - (a) submission of an annual application;
 - (b) a personal visit with the Range Division Head to prepare an annual permittee plan; and
 - (c) payment of the bill for collection and placing the full number of permitted livestock on the range unit.
- (8) **Non-use.** Non-use for part or all of a grazing season may be granted upon proper application by the permittee. Non-use may be for either personal convenience of the permittee, or may be required by the Department to address resource degradation caused by various events, including drought,

fire, flood, and industrial activities. Non-use for personal convenience shall be approved for no more than 2 consecutive seasons.

- (9) **Cancellation of permit.** The Department may cancel a permit prior to the end of the permit expiration date for any of the following reasons:
 - (a) voluntary surrender by the permittee; death of permittee shall not cancel the permit;
 - (b) failure of the permittee to comply with permit conditions; or
 - (c) failure to stock the range unit (unapproved non-use).
- (10) **Appeal of Cancellation.** A permittee may appeal cancellation of a permit to the AAHO no later than 15 calendar days after the date of cancellation.
- (11) **Base Property Requirement.** The grazing permittee must possess the base property for the duration of the grazing permit.

12-1-109. Grazing Fees.

- (1) The Department shall annually establish a fair market value grazing fee after reviewing Colorado State Land Board fees, federal fees, and other relevant factors. The fees shall be allocated to the Range Division budget.
- (2) All Southern Ute Indian Tribal members, Southern Ute Tribal enterprises, or Tribal member associations shall be required to pay a grazing fee. No free grazing shall be allowed for any class of livestock.
- (3) The Department shall assess the permittee a grazing fee based on the grazing year. Permittees must pay the full grazing fee prior to placing livestock on the range unit.
- (4) The Department shall refund a grazing fee only when range conditions dictate early removal of livestock as determined by the Range Division Head.
- (5) Grazing fees shall be calculated on an AUM basis rather than an animal month basis.
- (6) No grazing fee may be increased during the grazing year, and no grazing fees shall be refunded after cancellation pursuant to §12-1-107(9).
- (7) No grazing fee shall be assessed for approved non-use.

12-1-110. Permit Conditions. The following conditions shall be included in and made part of all grazing permits:

- (1) **Ownership requirement.** Only livestock owned by the permittee or immediate family members are authorized to graze under this permit. Livestock purchased and subsequently sold back to the original owner, or to an agent, assignee, or anyone representing or acting in concert with the original owner within a 24 month period without prior written consent of the Director shall not be considered valid ownership of the livestock. Leasing of livestock must be approved in writing by the Director prior to the beginning of the grazing year.
- (2) **More or less livestock than the permitted number.** Unless the number of livestock specified in this grazing permit is reduced by the Director, the permittee shall not be allowed credit or rebate of a fee if fewer than the permitted number of livestock is grazed on the range unit.
- (3) **Livestock Crossing Permits.** Permittees must obtain a Tribal livestock crossing permit to drive any livestock across Tribal lands that are not covered by the grazing permit.
- (4) **Quarantine Regulations.** All livestock covered by this grazing/crossing permit are subject to all federal, state, and Tribal quarantine laws and regulations now in effect or that may be promulgated in the future.
- (5) **Entering the Range Unit.** The earliest livestock will be allowed to enter the range unit is the date shown on the face of the permit. Permittees may place livestock on a range unit after the permit date but not before unless authorized in writing by the Director.
- (6) **Counting of Livestock.** All livestock may be counted on or off the range unit at the discretion of the Range Division Head. The permittee is required to make permitted livestock available for counting at any time during the permitted season upon notification by the Range Division.
- (7) **Brands.** All livestock permitted to graze or trail across Tribal lands must be marked with a brand or mark issued by the State of Colorado and owned by the permittee or an immediate family member.
- (8) **Permittee Affidavit.** The permittee may be required by Tribal authorities to prepare and sign an affidavit showing the number of livestock, by kind and class, grazing under this permit. An affidavit will only be requested when there is a question as to the number of livestock present on a range unit and the ownership of the livestock.

- (9) **Annual Permittee Plan.** The permittee, and any employees, agents, or contractors of the permittee, shall comply with the provisions of the annual permittee plan and this permit.
- (10) **Range Improvement Maintenance.** The permittee is responsible for maintenance of all range improvements as designated in their grazing permit and as required in the annual permittee plan.
- (11) **Range and Livestock Management.**
- (a) When the Range Division Head determines that the forage is not ready for grazing at the beginning of the designated grazing season, the Range Division will notify the permittee that livestock may not be placed on the range unit to avoid resource damage. The Range Division Head may notify the permittee to remove livestock before the expiration of the designated grazing season upon notification when it is apparent that further grazing would lead to overgrazing and resource damage.
 - (b) The permittee shall control permitted livestock and not allow them to stray from the permitted range unit.
 - (c) The permittee may not transfer, assign, lease, or sublet this permit in whole or in part.
 - (d) The permittee shall dispose of all dead livestock by removing the carcass from the range unit as soon as possible. Dead animals shall be immediately removed from stock ponds and disposed of by removal from the range unit.
 - (e) The permittee shall regularly ride or herd livestock to assure good livestock distribution. Sheep shall be herded openly, never in bunches, except in areas enclosed by sheep tight fences.
 - (f) Sheep shall not be bedded on the same area for more than 2 consecutive nights.
 - (g) Routes for moving livestock across Tribal lands from one range unit to another shall be designated in the permit and the permittee shall use the designated route except when traveling along a county or state highway.
 - (h) The permittee shall care for permitted livestock in a manner that will not harm neighboring livestock, regardless of ownership. Permittees shall comply with federal, state, and Tribal sanitary

regulations for the prevention, control, or eradication of any livestock disease.

12-1-111. Range Improvements and Development.

- (1) All range improvements of a permanent nature, whether constructed by the Tribe or by the permittee, are the property of the Tribe.
- (2) The permittee shall be responsible for the repair of all damage to improvements resulting from reasonable use, weather, and normal wear and tear. Failure to perform improvement maintenance may result in a charge for repairs when done by the Tribe. The permittee shall pay the charges to the Tribe prior to placing livestock on the range unit the subsequent grazing year.
- (3) No improvements shall be placed on the range unit by the permittee without written approval of the Director. Portable corrals, salt and mineral containers, fly rubs, and other non-fixed items are not considered improvements.

12-1-112. Range Violations and Enforcement.

- (1) The Departments of Natural Resources and Justice and Regulatory are responsible for enforcement of this Code. Any person violating the Range Code shall be subject to the jurisdiction of the Southern Ute Tribal Court. Violations of the Range Code may be prosecuted as a criminal or a civil offense. Offenders may be charged with one or more violations of the SUITC.
- (2) **Criminal Penalties.** Any owner or person in charge of livestock who allows livestock to run at large or graze on any Tribal lands without a valid permit or in excess of the permitted number, shall be guilty of trespass or a livestock offense pursuant to the SUITC Title 5 - *Criminal Code*.
 - (a) In addition to any penalties provided in Title 5 – *Criminal Code* – the Tribe may assess a penalty of \$100 per day per animal.
 - (b) Criminal charges will be prosecuted pursuant to SUITC Title 4 – *Criminal Procedure Code*.
- (3) **Civil Penalties.**
 - (a) Any person who allows livestock to run at large or graze on any Tribal lands, as defined in this Code, without a valid permit may be

subject to a civil citation issued by Southern Ute Indian Tribe law enforcement and a civil penalty of up to \$100 per animal per day. The Tribe may also refer the case to the U.S. Department of Justice for federal trespass charges prosecuted under 25 CFR §166.800.

- (b) A civil citation may include, and the Tribal Court may impose, a civil penalty of up to \$100 per animal per day for any other violation of this Code.
 - (c) Civil citations shall be on a form stating the name and contact information of the offender and livestock owner, if available, dates and locations of the violation(s), a description of the facts related to the violation(s), and any other relevant information along with the signature of a law enforcement officer or other authorized Tribal official.
 - (d) Civil penalties shall be paid no later than 20 days after receipt of the citation. If the offender does not pay the civil penalty, the citation becomes by law a summons and complaint that requires the offender to appear in Tribal Court at the place, date, and time indicated on the citation form.
- (4) Law enforcement shall give the owner of trespassing livestock no more than 48 hours after issuance of a criminal or civil citation to remove the trespassing livestock.
 - (5) In addition to criminal and civil penalties, the Tribe may cancel grazing permits possessed by a violator or initiate a civil action for reimbursement to the Tribe for range damage and repairs, which includes any improvements such as fences.

12-1-113. Short Title. For purposes of the Southern Ute Tribal Code, this code shall be known as the Range Code.

TITLE 12
RANGE CODE
History and Amendments¹

Title 12 adopted by Tribal Resolution No. 80-120, approved by the Bureau of Indian Affairs and effective on February 20, 1981.

Title 12 section and page numbering scheme revised and amended by Tribal Resolution No. 89-34, effective on March 21, 1989.

Sections 12-1-105(4), 12-1-106(10) and 12-1-107(3)(e) amended by Resolution No. 2014-215 on November 4, 2014, approved by BIA on December 12, 2014.

Resolution No. 2021-151 repealed and replaced the Range Code with a reformatted Range Code that contained only minor technical corrections, no substantive revisions, that the Bureau of Indian Affairs concurred it did not need to formally approve (April 25, 2023).

Resolution No. 2023-079 authorized on-line publication of the 2021-151 reformatted Range Code and provided an effective date of May 25, 2023.

¹ This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable.