



**ZUNI TRIBAL COUNCIL  
ZUNI, NEW MEXICO**

**March 29, 2017**

**RESOLUTION NO. M70-2017-P032**

**APPROVING SOLID WASTE MANAGEMENT ORDINANCE**

**WHEREAS**, the Zuni Tribal Council, consisting of the Governor, the Lieutenant Governor and the elected six Tenientes is declared to be the legislative authority of the Pueblo of Zuni, by Article V, Section I of the Constitution of the Zuni Tribe; and

**WHEREAS**, the Zuni Tribal Council, pursuant to Article VI, Section 1(k) of the Constitution of the Zuni Tribe, to enact ordinances for the maintenance of peace and order on the Zuni Reservation;

**WHEREAS**, the Zuni Tribal Council is authorized by Article VI, Section 1 (g) of the Constitution to regulate the use of tribal property and to protect the wildlife and natural resources of the tribe;

**WHEREAS**, the Tribal Council desires to respect the earth, land, water, air and other natural resources within the Zuni Indian Reservation;

**WHEREAS**, the Zuni Tribal Council first enacted the Disposal of Garbage Ordinance (Ordinance No. 5, enacted on June 13, 1973); and then enacted the Zuni Waste Disposal Code (Ordinance No. 51, amended on June 26, 1991), which is currently incorporated into the Zuni Law and Order Code at Title XIX;

**WHEREAS**, the Zuni Environmental Protection Program ("ZEPP") conducted several public scoping meetings regarding amending the Zuni Waste Disposal Code held on the following dates: July 30 and October 5, 2015; ZEPP also held a booth at the Zuni Fair with information about amendments to the Code on September 18, 2015; the draft amendments to the Code were also posted for comment on the Pueblo of Zuni website in July and August, 2015; and the amendments to the Code were aired on the KSHI community radio station on February 29 and March 1, 2016;

**WHEREAS**, the Zuni Tribal Council finds it is in the best interests of the Pueblo of Zuni to amend the Code as described in the Pueblo of Zuni Solid Waste Management Ordinance attached as Exhibit A to this Resolution.

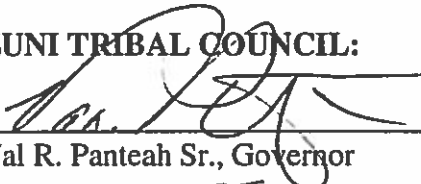
**THEREFORE BE IT RESOLVED**, that the Zuni Tribal Council hereby adopts the amended Pueblo of Zuni Solid Waste Management Ordinance, attached hereto as Exhibit A, as Title XIX of the Zuni Tribal Code-(hereinafter "Ordinance").

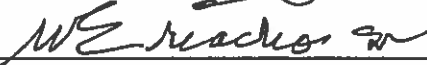
**BE IT FURTHER RESOLVED**, that the existing Zuni Waste Disposal Code is hereby repealed and superseded by the Ordinance.

**BE IT FURTHER RESOLVED**, that the Ordinance shall become effective on this date of this Resolution.

**BE IT FINALLY RESOLVED**, that the criminal penalties described in the Ordinance shall be incorporated into the Pueblo of Zuni Criminal Code within 90 days of enactment of this Resolution.

**ZUNI TRIBAL COUNCIL:**

  
\_\_\_\_\_  
Val R. Panteah Sr., Governor

  
\_\_\_\_\_  
Wilfred Eriacho Sr., Head Councilman


*absent*  
\_\_\_\_\_  
Carleton R. Bowekaty, Councilman

  
\_\_\_\_\_  
Eric Bobelu, Councilman

  
\_\_\_\_\_  
Birdena Sanchez, Lt. Governor

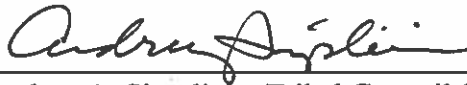
  
\_\_\_\_\_  
Virginia R. Chavez, Councilwoman


  
\_\_\_\_\_  
Audrey A. Simplicio, Councilwoman

  
\_\_\_\_\_  
Arlen Quetawki Sr., Councilman

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Zuni Tribal Council at a duly called meeting at Zuni, New Mexico at which a quorum was present and that the same was approved/disapproved by a vote of 7 in favor, 0 opposed, and 0 abstained on March 29, 2017.

  
\_\_\_\_\_  
Audrey A. Simplicio, Tribal Council Secretary  
Pueblo of Zuni

**APPROVED** /  **DISAPPROVED**:  
  
\_\_\_\_\_  
Val R. Panteah Sr., Governor      3/29/17  
Date

**ORDINANCE NO. 61**

**PUEBLO OF ZUNI  
SOLID WASTE MANAGEMENT ORDINANCE**

**ARTICLE I. AUTHORITY**

Pursuant to Article VI of the Zuni Tribal Constitution, the Zuni Tribal Council has the following authorities: to represent the Pueblo of Zuni and to act in all matters that concern the welfare of the Zuni people (Section. 1.d), to protect the wildlife and natural resources of the tribe (Section. 1.g), and to enact ordinances (Section 1.k). Therefore, the Zuni Tribal Council hereby enacts this Solid Waste Management Ordinance to govern the management, control and disposal of solid and other waste on all lands that under the jurisdiction of the Pueblo of Zuni (officially known as the “Zuni Tribe”).

**ARTICLE II: TITLE**

This Ordinance shall be known and cited as the “Zuni Solid Waste Management Ordinance” (hereinafter “Solid Waste Ordinance” or “Ordinance”) and shall supersede and replace all prior and inconsistent solid waste provisions of the Zuni Waste Disposal Code housed in Title XIX of the Zuni Tribal Code.

**ARTICLE III: PURPOSE**

The purpose of this Ordinance is to provide for the regulation, collection, storage and disposal of waste on lands within the Zuni Reservation, as well as to strengthen the Zuni comprehensive Solid Waste Management Program (“SWMP”). The SWMP shall work together with the Zuni Environmental Protection Program (ZEPP) to fulfill the following objectives:

- A. Protect the quality of the environment:
  - 1) Establish regulations for the collection, storage and disposal of Solid Waste, for Tribal Council approval; and
  - 2) Protect the quality of water, land, air and other resources from contamination by waste.
  
- B. Promote recovery and recycling of resources:
  - 1) Develop a comprehensive and integrated Solid Waste Management Plan that has source reduction and recycling as a priority; and
  - 2) Educate the community on recycling, neighborhood collection systems, sustainable practices, and environmental well-being.

C. Protect public health, safety and welfare:

- 1) Ensure the enforcement of codes, ordinances and regulations of the Pueblo of Zuni to protect the health, safety and welfare of the residents of the Zuni Indian Reservation;
- 2) Ensure that hazardous waste and toxic waste are properly handled and disposed; and
- 3) Ensure that general nuisance odors from solid waste are properly eliminated.

**ARTICLE IV: DEFINITIONS.**

For the purpose of this Ordinance the following terms, phrases, and words shall have the meanings as stated in this Article. When not consistent with context, words used in the present tense also include the future. The word “shall” is always mandatory and not merely directory.

“Inoperable vehicle” means a motorized vehicle that has not been driven, moved or registered with a government for at least one hundred eighty (180) days from the enactment of this Ordinance, which may or may not have a broken window, a flat tire, or a mechanical problem preventing the vehicle from being driven or moved.

“Accumulation” means any collection of solid waste which constitutes a public health nuisance.

“Approved receptacle” means an outdoor collection bin made of plastic, rubber, metal, or wood consisting of a solid bottom, sides and a solid lid.

“Ashes” means the residue from the burning of wood, coal, or other natural and combustible material.

“Commercial Collection” means all collection not defined as Residential Collection.

“Commercial Site” means a particular, distinct parcel of land which: (a) is intended for the construction of a structure to be used for commercial, governmental or institutional purposes or (b) has an existing structure of this type on it. Each Commercial Site in the possession of the same person or entity shall be treated as a separate Commercial Site for the purposes of solid waste collection unless otherwise designated in the Solid Waste Management Plan.

“Garbage” means the discarded, unwanted or unusable waste products or unused materials to include but not limited to, food, offal, ashes, waste paper, trash, rubbish, and waste or unwholesome materials generated during the consumption of resources.

“Handling” means the accumulation, storage, packaging, collection, disposal, transportation, reduction or other management or movement of solid and other waste.

“Hazardous Waste” means waste material that is: (1) toxic or poisonous, (2) corrosive, (3) irritating or sensitizing, (4) radioactive, (5) biologically infectious, (6) explosive, or (7) flammable, and which presents a significant hazard to human health and the environment, as defined by the Pueblo of Zuni. This includes but is not limited to those materials and concentrations of materials that are defined as hazardous waste by the U.S. Environmental Protection Agency.

“Industrial waste” means large quantities of products from industrial operations such as bales of paper and rags, wood chips, and scrap materials; and includes hazardous waste.

“Infectious waste” means waste containing pathogens or biologically active material which, because of its type, concentration or quantity, is capable of transmitting disease to persons exposed to the waste. Additionally, infectious wastes means: (1) equipment, instruments, utensils (needles), and fomites (sponges) of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having communicable disease; (2) laboratory wastes, including pathological specimens (*i.e.*, all tissues, specimens of blood elements, excreta, and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms); and (3) surgical operating room pathogenic specimens and disposable fomites, and similar disposable materials from outpatient areas and emergency rooms.

“Human feces” means the solid or semisolid discharge of the human digestive system, including bacteria.

“Person” means any individual, partnership, tribe, firm, public or private corporation, association, trust, estate, political subdivision, agency or any other legal entity or its legal representative.

“Personal Belongings” means items belonging to a deceased person that are personal in nature and routinely used by the person while he or she was alive. As used in this Ordinance, this definition is limited to only those items necessary for proper burial as determined by custom and tradition. This does not include any and all items used by the person while he or she was alive (such as dressers, bed frames, tables, televisions, wheelchairs, medical beds, mattresses, couches and appliances).

“Public Health Nuisance” means any activity or failure to act that adversely affects public health.

“Recycling” means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products.

“Recyclable materials” means materials that would otherwise become solid waste if not recycled, and that can be collected, separated or processed and used in the form of raw materials, products or fuels.

“Reservation” means the Zuni Indian Reservation and refers to all lands within the exterior boundaries of the Zuni Reservation and all lands held in trust by the United States for the benefit of the Zuni Tribe or its member(s).

“Residential collection” means solid waste collection from a residential site.

“Residential sites” means a particular, distinct parcel of land which is intended for the construction of, or on which is located, a residential dwelling, whether said dwelling is inhabited on a permanent or occasional basis. Serial residential sites, in the possession of the same person, shall be treated as separate residential sites for purposes of solid waste collection unless otherwise designated by Solid Waste Management Plan.

“Solid waste” means all rotten and non-rotten solid waste except human body wastes. Solid waste includes garbage, trash, ashes, dead animals, abandoned vehicles, and solid industrial wastes.

“Yard Waste” means vegetative plant matter including tree clippings, cut-up logs and weedy material and excluding building materials such as lumber.

## **ARTICLE V: AUTHORITY TO PROMULGATE REGULATIONS, POWERS AND DUTIES**

1. The Zuni Tribal Council shall have the exclusive authority to promulgate regulations to:
  - A. Implement and delegate enforcement of this Ordinance for the promotion of public health and the safety of the environment;
  - B. Regulate and control the storage, collection, and proper disposal of solid waste; and
  - C. Provide a public solid waste disposal site, designate the “Transfer Station” or additional sites for other types of waste for collecting, storing or disposing of solid waste by establishing, maintaining and operating such a site(s).

2. The Manager of the SWMP and Director of the ZEPP shall jointly prepare, update and make recommendations on amendments to this Ordinance and the Transfer Station Plan of Operations as they deem necessary, to be approved by the Tribal Council.
3. Tribal Council hereby delegates the following powers to the Solid Waste Management Program:
  - A. Administer and control the management of all solid waste, including all residential collection, commercial collection and recycling of solid waste on the Zuni Indian Reservation; and
  - B. Enter into contracts, subject to review and approval by the Zuni Tribal Council, as appropriate and necessary to fulfill their responsibilities under this Ordinance.
4. Tribal Council hereby delegates the following powers to ZEPP under this Ordinance, to be performed under its authority over SWMP:
  - A. Develop for Zuni residents, subject to Tribal Council approval, all regulations for the management of solid waste on the Zuni Indian Reservation;
  - B. Enter into contracts, subject to review and approval by the Zuni Tribal Council, as appropriate and necessary to fulfill their responsibilities under this Ordinance;
  - C. Seek and receive funds, gifts or administer grants from public or private sources, including tribal, state and federal sources to carry out the purpose, intent and provisions of this Ordinance;
  - D. Develop and administer a public education program to increase public awareness of, and cooperation in the environmentally safe and cost-effective management of solid waste on the Zuni Indian Reservation; and
  - E. Develop administrative procedures to ensure the compliance with, and enforcement of the purpose and intent of this Ordinance and the Regulations promulgated pursuant to this Ordinance.

#### **ARTICLE VI: REGULATION OF RESIDENTIAL AND COMMERCIAL COLLECTION PRACTICES**

All solid waste shall be stored in accordance with this Ordinance to meet the mechanical pick-up and/or manual retrieval of approved storage containers.

1. Residential - All residents must:

- A. Store solid waste in approved receptacles before disposal at transfer station.
  - B. Place solid waste by curbside for pickup, at the time and proper location designated by the SWMP, in areas where such service is available as determined by the SWMP.
2. Motor Vehicle - When transporting solid waste by motor vehicle to the transfer station, the vehicle driver shall ensure that:
  - A. Solid waste, including household generated infectious waste, is properly contained in approved containers or plastic bags and properly covered or secured;
  - B. All solid waste from burned materials such as wood, coal and ashes is completely extinguished;
  - C. Transfer Station staff may inspect vehicles to insure solid waste is properly contained in solid waste containers or plastic bags prior to disposal.
3. Commercial, including government - All persons disposing of commercial solid waste must abide by the following:
  - A. Have a solid waste site plan approved by the Solid Waste Management Program manager. Businesses will submit as part of a Zuni Tribal Business License Application. Those entities not requiring a business license will submit their solid waste plan to the Environmental Protection Program.
  - B. Store solid waste in approved receptacles.
  - C. Place solid waste in appropriate containers and appropriate areas at the Transfer Station as designated by the Manager of the SWMP.
4. Proper handling procedures for hot ashes, combustible or explosive wastes
  - A. The burning of solid waste is not allowed except as provided for in this Ordinance.
  - B. Any ashes transported must be fully extinguished prior to transport and be properly secured and covered.
5. Proper handling procedures for Recyclable Materials:



- A. The Manager of the SWMP and the Director of ZEPP shall coordinate proper handling of recyclable materials.
  - B. The Manager of the SWMP and the Director of ZEPP shall provide community education for the proper handling of recyclable materials.
  - C. The Manager of the SWMP and the Director of ZEPP shall provide recycling bins at the Transfer Station and Black Rock area.
6. Bulky wastes which cannot normally be placed inside an approved container shall be brought to the Transfer Station for disposal and must be properly covered and secured during transit.
7. Traditional Cultural Issues
- A. After Winter Deshkwi:
    - 1) It is acceptable to burn minimal amounts of paper wastes at the end of Winter Deshkwi according to ongoing traditional beliefs and obligations.
    - 2) After Winter Deshkwi, it is the responsibility of the individual households to deposit all household and burnt wastes in the proper receptacles at the transfer station.
  - B. Other Traditional / Cultural Functions:
    - 1) Significant items, including but not limited to yucca, spruce, etc., used for cultural purposes by kiva groups, other groups and individuals shall be properly disposed in a designated area.
    - 2) The designated area is west of Zuni Pueblo near the intersection of Ojo Caliente Road and Lansisku Road along the Zuni River in an area called "Modowa".
  - C. Traditional Meal Offerings-Ancestral Feeding Areas:
    - 1) The designated area for Traditional Meal Offerings is the entire Zuni River channel and all tributaries connecting to the Zuni River, upstream and downstream from the Pueblo.
    - 2) Individuals making traditional food offerings shall be responsible for proper disposal of wrappings, in accordance with Article VIII: Prohibited Acts.

**D. Burial of Deceased Person's Belongings:**

- 1) Relatives of a deceased shall notify the Manager of the SWMP and Governor's Office to dispose of a deceased person's personal belongings, including clothing and personal items.
- 2) The designated area to dispose of a deceased person's Personal Belongings shall be the area west of Zuni Pueblo (Kuchelo:wa). Personal Belongings shall be buried and fully covered in accordance with traditions and beliefs.
- 3) Other items from a deceased person that are not Personal Belongings such as dressers, bed frames, tables, televisions, wheelchairs, medical beds, mattresses, couches and appliances, may be offered to local or outside charitable organizations or properly disposed of at the Transfer Station, as determined by ZEPP.
- 4) Disposal of Personal Belongings or other items from a deceased person anywhere else on the Zuni Reservation shall be considered a Class B offense.

**ARTICLE VII: SCHEDULE OF FEES**

Fees for disposal at the Transfer Station for Residential Collection or Commercial services shall be established by the SWMP Manager and approved by the Tribal Council.

**A. Residential Collection fee**

- 1) Every individual will be required to pay a fee per bag or per truck load unless a vehicle scale is available, in which case fees shall be based upon load weight.
- 2) Fees must be paid at the Transfer Station at the time of delivery.

**B. Commercial Collection fee**

- 1) Business owners will be required to pay a fee per bag or per truck unless a vehicle scale is available, in which case fees will be based upon load weight, as determined by the SWMP Manager.
- 2) Fees must be paid at time of service or as scheduled at the Finance Department or at the Transfer Station.

C. Deposits and fees for initiation/termination of solid waste pickup service

- 1) Homeowners of residential properties are responsible for cleanup of all waste on their property. Fees will be imposed for solid waste services once collection service is activated.
- 2) Owners of commercial property are responsible for cleanup of solid waste on their property. Fees will be imposed on business owner once solid waste services are activated.
- 3) Penalties will be levied for delinquency or failure to pay collection fees.
- 4) Procedures for converting service from residential to commercial, or from commercial to residential, shall be drafted by the SWMP Manager and approved by Tribal Council prior to implementation.

**ARTICLE VIII: PROHIBITED ACTS**

1. **PROHIBITED ACTS:** No person(s) shall handle solid or hazardous waste in any manner other than permitted under this Ordinance and/or the regulations promulgated under this Ordinance. Without limiting the general application of the foregoing provision, the following acts are specifically prohibited:

- A. **DUMPING-** No person shall dump or otherwise discard solid waste anywhere on the Zuni Indian Reservation except at a time and place approved for collection of solid waste by this Ordinance, or the regulations promulgated under this Ordinance. No person shall place solid waste on property in the possession of another without their permission, or in the solid waste receptacle of another without their permission.
- B. **UNAUTHORIZED ACCUMULATION-** No person shall allow solid waste to collect or accumulate on a commercial or residential site of which that person is in possession except as is permitted pursuant to this Ordinance or the regulations promulgated under this Ordinance. Any unauthorized accumulation (i.e. collection of solid waste deemed a public health nuisance) is prohibited, including but not limited to dead animal waste, human feces, and storing trash in abandoned vehicles. Stored solid waste may be deemed a public health nuisance if it is found to be unsightly, odiferous, attractive to pests, a fire hazard or in any other complaint worthy state.
- C. **INOPERATIVE VEHICLES –** Residents, commercial entities, institutions and organizations shall not be allowed to retain and let sit any inoperable vehicles on

their respective properties. Such resident or entity shall be notified to remove any inoperative vehicle(s) and shall be provided 30 days to do so. Upon being cited for this violation and if the inoperative vehicle is not removed in the prescribed time, such violator may be liable for any civil penalty or criminal sanctions of the Zuni Tribal Court.

- D. **SCATTERING OF SOLID WASTE**-No person shall cast, place, sweep, throw, deposit or otherwise discard solid waste on the Reservation in such a manner that it may be carried or deposited by the elements, or that it in any other way litters any road, street, sidewalk, parkway, sewer, other public vacant lot, or other area on the Reservation.
- E. **ACCUMULATION OF CONSTRUCTION SOLID WASTE**-No person may collect solid waste resulting from construction from the transfer station other than as provided by this Ordinance or the regulations promulgated under this Ordinance.
- F. **ACCUMULATION FOR RECYCLING**-No person shall accumulate or collect recyclable materials from the transfer station for the purpose of recycling in any means other than as provided by this Ordinance or the regulations promulgated under this Ordinance.
- G. **SALVAGING AND SCAVENGING**- Ownership of any and all solid waste set out for collection, collected, disposed of or accumulated at the Transfer Station or any other location, shall be, and hereby is, vested in the Pueblo of Zuni starting at the time of collection or disposal by the tribe. No person shall salvage or scavenge, or retrieve any item of solid waste or recyclable material from the Transfer Station.
- H. **CONDEMNED MOBILE HOMES** – Residents, commercial entities, institutions and organizations shall not be allowed to possess a mobile home that has been condemned or deemed to be unsafe by the Pueblo of Zuni. Upon being cited for this violation and if such mobile home is not removed, such violator may be liable for any civil penalty or criminal sanctions of the Zuni Tribal Court.
- I. **BURNING OF CERTAIN WASTE**- The burning of household trash is never permitted except as provided for in Article VI.7.A, nor is it ever permissible to burn chemically treated wood products or non-organic man-made materials such as plastic or Styrofoam. The burning of weeds, yard waste or other materials is allowed only when an individual is in possession of a valid Open Burning permit issued by the Bureau of Indian Affairs, Zuni Agency, and said burn shall be conducted according to all rules and regulations set forth by said Agency. While conducting such a burn, any applicable BIA Open Burning regulations must be adhered to.

- J. HAZARDOUS WASTE-No person shall store accumulate, bury, dump, transport or otherwise dispose of any Hazardous Waste on or within Reservation.

## **ARTICLE IX: ENFORCEMENT**

1. EFFECT OF REGULATIONS - All regulations promulgated under this Ordinance by SWMP and ZEPP shall be approved by the Tribal Council prior to enforcement. Regulations shall have the force and effect of law, and any person violating such regulations shall be subject to civil and criminal penalties, as provided herein.
2. The SWMP, ZEPP, Zuni Tribal Police Department and the Zuni Game and Fish officers, shall enforce all ordinances and codes subject to civil and criminal penalties, as provided herein.
  - A. Staff from ZEPP may write reports on violations of the provisions of this Ordinance.
  - B. Pueblo of Zuni Police and Game and Fish Officer are authorized to issue civil or criminal citations for violations of the provisions of this Ordinance.
  - C. Police and the Game and Fish Officers shall file affidavits on violations of this Ordinance with the Zuni Tribal Court.
  - D. Defendants will be given due process in accordance with Zuni Tribal Court procedures.
  - E. Police and Game and Fish Officers may contact community member regarding illegal acts to investigate and ascertain facts or evidence linking illegal dumping to the individual(s).
  - F. SWMP and ZEPP staff shall report sites for illegal dumping to Police or Game and Fish Officers.
  - G. SWMP staff, Police, and Game and Fish Officers shall report illegal dumpsites to the Director of ZEPP.
  - H. ZEPP staff, Police and Game and Fish Officers may investigate illegal dumpsites to uncover identifiable materials or evidence linking solid waste at illegal dumpsites to owners of the solid waste.
  - I. Fines levied under this Ordinance shall be paid into a SWMP fund established to clean up illegal dumpsites and fund roadside cleanup.

## **ARTICLE X: PENALTIES**

1. **CIVIL PENALTY-** Any person not a member of a federally recognized Indian tribe, upon committing any violation of any provision of this Title or Chapter, may be subject to a civil action for trespass, and upon having been determined by the court to have committed the alleged violation, shall be found to have trespassed upon the Lands of the Pueblo, and shall be assessed such damages as the court deems appropriate in the circumstances.
2. **CRIMINAL PENALTY-** Any person convicted of committing any violation of this Article shall be subject to punishment of up to three (3) months imprisonment or a fine not to exceed Two Hundred Fifty Dollars (\$250.00) for a Class B Offense.
3. **CLEAN UP COST-** All violators shall be required to bear the cost of the removal of Solid Waste, and/or Recyclable Materials and the clean-up of the site on which the violation occurred.
4. Fines assessed under this Ordinance shall be paid into a SWMP Fund hereby established to clean up illegal dumpsites and fund roadside cleanup, as determined by Tribal Council.

## **ARTICLE XI. MISCELLANEOUS PROVISIONS**

### **A. SEVERABILITY CLAUSE**

In the event any provision or provisions of this Ordinance are found invalid by a court of law, the remaining provision or provisions shall remain valid and in force.

### **B. AMENDMENTS**

Tribal Council may amend this Ordinance from time to time as needed. Such amendment shall not become effective until adopted by Tribal Council at a duly called meeting with quorum present.

### **C. EFFECTIVE DATE**

This Ordinance shall become effective on the date prescribed in the Tribal Council Resolution enacting this Ordinance.