

ROUND VALLEY INDIAN TRIBES
A Sovereign Nation of Confederated Tribes

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LOCATION: ON STATE HWY 162
ONE MILE NORTH OF COVELO
IN ROUND VALLEY
TRIBAL TERRITORY SINCE TIME BEGAN

ROUND VALLEY RESERVATION ESTABLISHED 1856

LAW & ORDER CODE

FOR THE

ROUND VALLEY

INDIAN TRIBES

Enacted: November 20, 2012
Amended: February 20, 2014

**ROUND VALLEY INDIAN TRIBES
LAW AND ORDER CODE**

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Chapter 1.

FINDINGS, DECLARATION, CONSTRUCTION AND JURISDICTION

Section 1.01 Findings and Declaration

The Round Valley Indian Tribes' Tribal Council finds and declares:

- (A) There is a need to ensure law and order on the Round Valley Indian Tribes' Reservation.
- (B) Public Law 280 did not divest the Tribe of its inherent sovereign authority to establish our own laws and enforce them.
- (C) This Ordinance is adopted to ensure law and order for all tribal members, residents and visitors to the Reservation. It is the policy of the Tribe that Reservation residents and visitors are entitled to safety and security against harm.
- (D) The adoption and enforcement of a Law and Order Ordinance is necessary to maintain peace and order on the Reservation. The adoption of this Ordinance is in the best interest of the members of the Tribe and furthers the Tribe's sovereignty and administration of justice. This Ordinance promotes the health and safety of the members of the Tribe.

Section 1.02 Liberal Construction

This Ordinance will be liberally construed to give full effect to the purposes for which it was enacted and shall be interpreted and construed to preserve the peace, safety, health and general welfare of the people of the Tribe and those on the Reservation. This Ordinance is intended to ensure law, order, peace and security on the Reservation and promote the welfare of the Tribe and its members.

This Ordinance is also intended to safeguard individual rights and community standards, and to ensure that all parties are treated fairly and without prejudice. This Ordinance provides an orderly procedure for resolving conflicts. This Ordinance is intended to exert jurisdiction over all matters essential to the Tribe's self-determination and self-governance.

Section 1.03 Jurisdiction

The Tribal Court shall have jurisdiction over all violations under this Ordinance. This Ordinance will be applicable to all persons and lands within the exterior boundaries of the Reservation and is limited only by the Tribe's Constitution and applicable federal law. This jurisdiction shall be concurrent with any valid jurisdiction by courts of the United States and the state of California.

Chapter 2. **DEFINITIONS**

"Alter" means to change, modify, or vary in some degree; to change some of the elements, ingredients or details without substituting an entirely new thing or destroying the identity of the thing affected.

"Bodily injury" means: cut, abrasion, bruise, burn, physical pain; or causing illness, impairment of a function of a bodily member, organ, or mental facility; or any other injury to the body, no matter how temporary.

"Controlled substance" means any drug or other substance, under the provisions of Chapter 13, Title 21, Section 802, "Controlled Substance" of the United States Code.

"Council" or "Tribal Council" means the Tribal Council for the Round Valley Indian Tribes.

"Council Member" means a member of the Round Valley Indian Tribes' Tribal Council.

"Damage" means loss, injury, or deterioration to property causing it to decrease in strength, value, amount or quality.

"Dangerous drug" means any drug that is included in Chapter 13, Title 21, Section 802, "Dangerous Drug" schedules I, II, III, IV, or V of the United States Code. This term includes a device or a drug that bears or is required to bear the legend:

- i. Caution: Federal law prohibits dispensing without a prescription; or
- ii. Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

"Dangerous Weapon" means any firearm, or other weapon, device, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is known to be capable of producing death or serious bodily injury.

"Destroy" means to ruin the structure, organic existence or condition of a thing or property, to demolish to injure or mutilate beyond possibility of use.

"Deface" means damage to monuments, buildings or other structures by changing the physical appearance.

"Drug Paraphernalia" means any equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or dangerous or narcotic drug.

"Elder" means a person over the age of 55.

"Exclude" means to ban or forbid a person from being present on the Reservation.

"Firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion. Firearm does not mean a BB device.

"Financial loss" means a loss of money or decrease in financial value.

"Marijuana" means all parts of the plant *Cannabis sativa* L. whether growing or not, under the provision of Chapter 13, Title 21, Section 802, "Marijuana" of the United States Code.

"Motor Vehicle" or **"Vehicle"** includes automobiles, motorcycles, ATVs, trucks, and all other forms of motorized transportation.

"Narcotic drug" means any drug under the provision of Chapter 13, Title 21, Section 802, "Narcotic Drug" of the United States Code.

"Owner" means a person holding title to real or personal property. In the case of real property, Owner shall include a lessee or assignee of property under an assignment or valid lease from the Tribe or the Owner. In cases of uncertainty, "Owner" shall mean the Tribe.

"Pollutant" means any substance that will alter the Quality of the Waters of the Reservation.

"Private Property" means any property owned in fee, individual land where title is held in the name of the United States in trust for the individual (allotments), and for purposes of this Ordinance only Tribal Property leased from the Tribe and Tribal Property issued to tribal members pursuant the Tribe's Assignment Ordinance (assignments).

"Property" means:

- i. Real property such as land or structures and building affixed to land and includes both tribal and private;
- ii. Personal property which is anything tangible or that can be severed from real property.

"Quality of the Waters" means any chemical, physical, radiological, and other properties and characteristics of water, which affect its use.

"Recklessly" means a person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him or her.

"Reservation" means all land, air and waters within the exterior boundaries of the Round Valley Indian Reservation, and all lands claimed by the Tribe to which the Tribe may establish title.

"Serious Bodily Injury" means: Bodily Injury, which involves: a substantial risk of death; extreme physical pain or disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental facility.

"Tribal Council" is the seven member committee established under Article 4 of the Tribe's Constitution. The Tribal Council is the Tribe's governing body.

"Tribal Court" means the judiciary branch of the Tribe as set forth and provided for in the Tribe's Constitution.

"Tribal Member" means an enrolled member of the Round Valley Indian Tribes.

“Tribal Property” means all property held by the United States government in trust for the Tribe and all land owned by the Tribe in fee, Tribal structures, buildings, facilities, dwellings and all personal property of the Tribe.

“Tribal Police Officer” means a person designated by the Tribe to enforce this Ordinance and to act as a law enforcement officer for the Tribe.

“Tribe” means the Round Valley Indian Tribes.

“Violation” means a violation of tribal law as set forth in this Ordinance.

“Water” means any water, surface or underground located on or running through the Reservation.

Chapter 3. ***VIOLATIONS AGAINST PEOPLE***

Section 3.01 Assault or Aggravated Assault

(A) A person commits Assault if he or she:

- (1) Knowingly or purposely causes bodily harm to another;
- (2) Negligently causes bodily harm to another with a weapon;
- (3) Knowingly or purposely makes physical contact of an insulting or provoking nature with an individual;
- (4) Knowingly or purposely causes reasonable apprehension of bodily harm in another; or
- (5) Aids, assists, commands, or counsels another to commit Assault.

(B) A person commits Aggravated Assault if he or she knowingly or purposely causes:

- (1) Serious bodily harm to another;
- (2) Bodily harm to another with a weapon;
- (3) Reasonable apprehension of serious bodily harm in another by use of a weapon;
- (4) Bodily harm to tribal officials, tribal employees or law enforcement officers lawfully discharging an official duty; or
- (5) Aids, assists, commands, or counsels another to commit Aggravated Assault.

Section 3.02 Violations Against Minors

(A) Contributing to the Delinquency of a Minor

- (1) A person commits Contributing to the Delinquency of a Minor when he or she purchases or gives:
 - (a) alcoholic beverages or drugs for or to any person under the age of 21;

or

(b) cigarettes, marijuana, Dangerous Drug or Narcotic Drug for or to any person under the age of 18.

Chapter 4. ***VIOLATIONS AGAINST ANIMALS***

Section 4.01 Cruelty to Animals and Animal at Large

(A) *A person commits "Cruelty to Animals" if he or she:*

- (1) Physically mistreats an animal either by abuse or failure to provide minimum care, including but not limited to failure to seek appropriate medical care including vaccinations. Physical mistreatment of an animal includes but is not limited to killing (except for permitted hunting), beating or torturing, an animal or depriving an animal necessary drink, food or shelter, or chaining or tying an animal in a confined area.

(B) *A person commits "Animal at Large" if he or she:*

- (1) permits an animal, other than a domestic cat, to be at large. At Large means not under the physical control of the owner or keeper or not physically contained on the owner's or keeper's premises or motor vehicle.

Chapter 5. ***VIOLATIONS AGAINST PROPERTY***

Section 5.01 Damage or Destruction

(A) *A person commits Damage or Destruction if he or she, without the permission of the owner:*

- (1) Damages or destroys the property of the owner;
- (2) Tamper with property of the owner and causes financial loss or substantial inconvenience to the owner or a third person;
- (3) Makes markings, including writing, drawing, or painting on the property of the owner;
- (4) Alters, defaces or damages in anyway tribally owned property, which may include a monument, structure or facility, place of worship or burial or any other property respected by the community of the Tribe; or
- (5) Aids, assists, commands, or counsels another to commit Damage or Destruction.

Section 5.02 Trespass

(A) *A person commits Trespass if he or she enters or remains on tribal or private property of another without consent and:*

- (1) Had notice that the entry was forbidden; or
- (2) Was ordered to depart and failed to do so; or
- (3) Has been excluded or debarred from the Reservation or specific a location(s) on the Reservation by the Tribe, the Gaming Commission, or the Tribal Court.

(B) Notice or an order may be given by:

- (1) Written or verbal communication given to the intruder by a Tribal Official, Tribal Police Officer, the owner of the property or a person authorized to act on behalf of the owner;
- (2) Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
- (3) Fences, barricades or other devices obviously designed to enclose the property and to exclude all potential intruders; or
- (4) Written notice of exclusion issued by the Tribal Court, Exclusion Hearing Panel or Tribal Council; or
- (5) Written Tribal, State or federal protective order(s) or restraining order(s) preventing a person from entering the Reservation or buildings within the Reservation.

Section 5.03 Arson

A person commits Arson when he or she intentionally sets fire to, burns, causes to be burned, or aids, counsels, or assists in the burning of any real or personal property, including crops or trees on the Reservation.

Section 5.04 Negligent Arson

A person commits Negligent Arson if the person purposely or knowingly starts a fire or causes an explosion, whether on the person's own property or property of another, and thereby negligently:

- (A) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion; or*
- (B) places property of another in danger of damage or destruction.*

Failure to obtain a Tribal fire permit is Negligent Arson.

Section 5.05 Theft

(A) A person commits Theft when he or she knowingly:

- (1) takes Personal Property of another without permission or consent and with the intent to convert it to the taker's use (including potential sale); or
- (2) receives, conceals or aids in the reception or concealment of Personal

Property obtained by illegal means .

Chapter 6. **VIOLATIONS AGAINST THE PEACE**

Section 6.01 Disorderly Conduct

(A) A person commits Disorderly Conduct if he or she:

- (1) Fights with another person within the boundaries of the Reservation;
- (2) Creates a nuisance by any excessive noise, or other behavior, or allows or permits the creation of a nuisance on property owned, leased, occupied or otherwise controlled by such person, except for sanctioned cultural events;
- (3) Not being lawfully authorized to do so, displays a Dangerous Weapon in a manner calculated to alarm;
- (4) Abuses or threatens a person in an obviously offensive manner;
- (5) Drinks an alcoholic beverage on any tribal street, alley or sidewalk, or on any other Tribal Property (unless otherwise authorized by the Tribe), or upon Private Property that he or she has no right to occupy;
- (6) Indecently exposes themselves;
- (7) Uses abusive, indecent, profane, or threatening language in a tribal building or on Tribal Property..

Section 6.02 Carrying a Prohibited Weapon

(A) A person commits Carrying a Prohibited Weapon if he or she carries on or about his or her person a Dangerous Weapon. For this subsection only a dangerous weapon shall not include a firearm that is registered with the State or the Tribe. This subsection shall not apply to Tribal Police Officers or any other state, federal or tribal law enforcement officer.

(B) Any Tribal Police Officer or other tribally designated security or law enforcement officer may, upon probable cause, confiscate a Dangerous Weapon from any person who violates this subsection.

Section 6.03 Reckless Discharge of a Firearm

(A) A person commits Reckless Discharge of a Firearm when he or she:

- (1) Discharges a firearm within a residential or business area;
- (2) Discharges a firearm at a dwelling, occupied building or occupied motor vehicle; or
- (3) Discharges any firearm that results in damage to property or harm to a person.

- (4) Section 6.03(A)(1) – (3) do not apply to Tribal Police Officers acting within their scope of authority.

Section 6.04 Loitering and Curfew

(A) A person commits Loitering if:

- (1) He or she remains on Tribal Property after notification by a Tribal Police Officer, Tribal Officials or employees to leave the area.

Section 6.05 Violations Against the Tribal Government

(A) Interfering with Lawful Detention or Resisting Detention

- (1) A person commits Interfering with Lawful Detention or Resisting Detention if by force, violence or other means, he or she:
- (a) Interferes, obstructs or resists any tribal official, Tribal Police Officer or other law enforcement officer in the performance of their official duties;
 - (b) Flees from any Tribal Police Officer or other law enforcement officer who is attempting to lawfully restrain him or her; or
 - (c) Assists another to avoid a lawful detention or harbors someone fleeing from the Police.

(B) Disrupting Tribal Council Meetings

- (1) A person commits Disrupting Tribal Council Meetings if he or she:
- (a) Causes a disturbance or disruption of the meeting that interferes with other attendees' ability to receive the information being presented.

(C) Bribery

- (1) A person commits Bribery by knowingly offering, conferring, agreeing to confer upon another, soliciting, accepting, or agreeing to accept from another, any benefit, including pecuniary benefit, as consideration for:
- (a) the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a Tribal Official, employee or voter; or
 - (b) the recipient's decision, vote, recommendation, or other exercise of official discretion in a Tribal judicial or administrative proceeding.

Chapter 7. ***DRUG AND ALCOHOL VIOLATIONS***

Section 7.01 Chemical Intoxication

(A) A person commits a violation of Chemical Intoxication if he or she:

- (1) Inhales, ingests, applies, uses, or possesses a substance containing a volatile chemical, abusable glue or aerosol paint with the intent to inhale, ingest, apply, or use the substance in a manner:
- (a) contrary to directions for use, cautions, or warnings appearing on a label of a container of the substance; and designed to: affect the person's

central nervous system; create or induce a condition of intoxication, hallucination, or elation; or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

Section 7.02 Illegal Drugs

A person commits a violation of Illegal Drugs if he or she possesses or consumes without a medical prescription; or manufacturers or distributes a Controlled Substance, Dangerous Drug, Narcotic Drug or Drug Paraphernalia.

Section 7.03 Intoxication on Tribal Property

- (1) A person commits Intoxication on Tribal Property if he or she appears intoxicated on Tribal Property to the degree that the person may endanger himself, herself or another.

Section 7.04 Intoxication While Operating a Motorized Vehicle

(A) A person commits Intoxication While Operating a Motor Vehicle when he or she drives a vehicle on the Reservation, including Private Property:

- (1) When his or her driving is impaired; and
- (2) under the influence of any alcohol, Controlled Substance, Narcotic or Dangerous Drug, or
- (3) Any person who refuses to comply with the authorized breath test administration or field sobriety test shall be subject to an additional fine in addition to any other orders of the Tribal Court.

Chapter 8. VIOLATIONS AGAINST HEALTH AND SAFETY

Section 8.01 Dumping

A person commits Dumping when he or she dumps refuse, solid waste or unwanted items anywhere other than in an approved location or authorized landfill; or by conduct that violates Interim Ordinance RV-95-1 Solid Waste Management Ordinance.

Section 8.02 Open Burning of Solid Waste

A person commits Open Burning of Solid Waste when he or she burns garbage or solid waste without obtaining a burning permit.

Section 8.03 Water Pollution

A person commits Water Pollution by discharging a Pollutant into the Waters of the Reservation; or by conduct that violates Ordinance RV-97-01 Prohibiting Discharge of Pollutants in Water.

Chapter 9. **TRAFFIC VIOLATIONS**

Section 9.01 Unlawful Operation of Motor Vehicle

(A) A person commits Unlawful Operation of a Motor Vehicle when he or she operates a vehicle:

- (1) without wearing a seatbelt; or
- (2) without a valid state driver's license or vehicle registration; or
- (3) without proof of insurance; or
- (4) with a child who is not restrained in a child safety seat; or
- (5) on any street or road within the Reservation in willful disregard for the safety of persons or property; or
- (6) in excess of 40 miles per hour on any paved road within the Reservation unless otherwise posted; or
- (7) in excess of 25 miles per hour on any unpaved road within the Reservation unless otherwise posted; or
- (8) in excess of 15 miles per hour in any residential area within the Reservation unless otherwise posted; or
- (9) in excess of any other posted speed limit on any road on the Reservation; or
- (10) in disregard of any posted road or traffic sign on any road on the Reservation.

(B) A person commits Unlawful Operation of a Motor Vehicle when:

- (1) He or she operates a motorcycle or ATV without a helmet or spark arrester; or
- (2) He or she operates a motorcycle or ATV with more than 2 people on the vehicle; or
- (3) He or she operates an ATV on a paved road.
- (4) He or she refuses to provide his or her driver's license or proof of insurance at the request of a Tribal Police Officer.

Section 9.02 Unlawful Parking or Unlawful Storage of an Abandoned Motor Vehicle

(A) A person commits Unlawful Parking when he or she parks, stops or leaves standing any motor vehicle within:

- (1) areas designated solely for the passage or parking of emergency vehicles;

- (2) a no-parking area as identified by a no parking sign;
 - (3) 20 feet of a fire hydrant;
 - (4) a parking area designated for physically disabled persons without a valid State of California or Tribal physically disabled parking permit;
- (B) A person commits Unlawful Storage of Abandoned Vehicle when he or she stores more than two nonoperational vehicles on Tribal Property or Private Property.*

Chapter 10. **JUVENILE STATUS OFFENSES**

Section 10.01 Curfew

- (A) A person commits violation of Curfew if:*
- (1) He or she is a minor (under the age of 18 years old) who remains on Tribal Property between the hours of 10:00 p.m. and 6:00 a.m.;
 - (2) He or she is a parent, guardian or custodian of a minor and knowingly permits or by insufficient control allows the minor to remain on Tribal Property between 10:00 p.m. and 6:00 a.m.; or
 - (3) He or she is a parent, guardian or custodian of a minor and knowingly fails to respond within two hours of notification by Tribal Police Officer, law enforcement official, or Tribal Official to take custody of a minor taken into protective care for violation of this subsection.

Section 10.2 Truancy

- (A) A person commits violation of Truancy if:*
- (1) He or she is a minor (under the age of 18 years old), who has not completed the twelfth grade or received a GED, and without good cause fails to attend school, shall be guilty of the status offense of truancy.
 - (2) Exceptions shall be permitted if the minor is married or otherwise emancipated, or attending an approved basic education program or is employed with the consent of a parent or guardian.
 - (3) Truancy violation is a status offense with a fine not to exceed \$100.00, or community service, counseling or other appropriate order of the Court.

Section 10.3 Unauthorized absence from home - Runaway

- (A) A person commits violation of Runaway if:*
- (1) He or she is a minor (under the age of 18 years old), who is absent from the home of his or her parent, guardian or custodian, without permission or knowledge of his or her parent, guardian or custodian, for more than eight hours shall be guilty of the status offense of runaway.

- (2) Exceptions shall be permitted if the minor is married or otherwise emancipated.
- (3) Runaway violation is a status offense with a fine not to exceed \$100.00, or community service, counseling or other appropriate order of the Court.

Chapter 11. ***ENFORCEMENT***

Section 11.01 Tribal Police Duties

It shall be the duty of every Tribal Police Officer to enforce this Ordinance.

Section 11.02 Tribal Police Authority

In fulfilling his or her duties and responsibilities under this Ordinance, Tribal Police Officers are vested with the authority contained in the Resolution that established the Tribal Police Department.

Section 11.03 Citations

A Tribal Police Officer has the authority to issue citations for violations of this Ordinance committed in their presence or when the Tribal Police Officer has reasonable cause to believe a violation has been committed. Such citation shall be issued no later than 30 days from when the violation occurred.

Section 11.04 Identification

A person who is reasonably suspected of committing a violation of this Ordinance and is stopped by a Tribal Police Officer is required to identify himself or herself by providing his or her name, address, and date of birth. If requested by the Tribal Police Officer, the person shall also produce picture identification card, such as a driver's license, military I.D. or Tribal I.D. card. If the person is unable or unwilling to identify himself or herself, or produce a picture identification card, the Tribal Police Officer may detain the person for a reasonable period of time in order to identify the person and issue a citation.

Section 11.05 Notice Requirement

(A) *The citation shall include the following statements:*

- (1) the violation is an offense for which imprisonment is not an available sanction;
- (2) the subsection of the Ordinance that was violated along with a statement briefly describing the conduct of the person which lead to the violation;
- (3) the monetary penalty imposed for the violation and that the person may be noticed by separate letter that the penalty amount has increased after determination that the person has previous violations;
- (4) information about how the person may contest the citation;

- (5) the person must respond to the citation within thirty (30) days from the date of personal service of the citation or sixty (60) days from the date of service by mail; and
- (6) failure to respond to the citation or failure to appear at a requested hearing will result in a default judgment against the person in the amount of the citation plus a sanction imposed by the Court for person's failure to appear.

Section 11.06 Second Notice

A second notice may be served on a person who has been served a citation informing him or her that the amount of the penalty reflected on the citation has been increased due to the fact that the person has previously been cited for one or more times in the past twelve months for the same violation thereby enhancing the penalty for the recent violation. This second notice shall inform the person of the revised penalty amount and again inform the person where he or she may pay the fine and the process for contesting the citation.

Section 11.07 Service of the Citation

(A) The citation may be served on the person in the following manner;

- (1) Personal service; or
- (2) Mailing the citation by certified or registered mail, return receipt requested, addressed to the person at his or her mailing address if known, or such other place which is believed to give the occupant or owner actual notice of the citation by the Tribal Police Officer.

(B) Service is deemed effective on the date of the personal service or when the certified mail is either delivered or delivery is attempted. If the certified mail receipt is returned unsigned, then service shall be deemed effective on the date three days following deposit in the mail.

(C) Where service of any notice required under this Ordinance is effected in compliance with this Section and with due process the asserted failure of any person to receive the notice shall not affect the validity of any proceedings taken under this Ordinance.

(D) A copy of citation and, if applicable, the proof of service shall be filed with the Tribal Court within fifteen business days of issuance. If the Tribal Court does not receive the citation within this timeframe, the Tribal Court may dismiss the citation without prejudice.

Chapter 12. HEARING PROCEDURES

Section 12.01 Response Options

(A) A person shall respond to the citation in one of the following ways;

- (1) Pay the fine by submitting a cashier check or money order in the amount of the civil fine to the Tribe within thirty (30) days from the date the citation is served if served personally or sixty (60) days from the date the citation is served by mail; or
- (2) Request a hearing by completing that portion of the citation form and submitting the request to Tribal Court, per the instruction on the citation, within thirty (30) days from the issuance of the citation if served personally or sixty (60) days from the issuance of the citation if served by mail.

Section 12.02 Default Judgment and Burden of Proof

(A) Failure to Respond and Default Judgment

- (1) The Tribal Court shall enter a default judgment and impose additional sanctions against a person who is served with a citation; and
 - (a) fails to pay the fine amount or request a hearing; or
 - (b) fails to appear at a hearing that he or she has requested.

(B) Burden of Proof

The burden of proof shall be on the Tribe, however, the citation and any additional reports submitted by the Tribal Police Officer shall constitute presumptive evidence of the respective facts contained in those documents. In cases where the defendant contests the citation the standard of proof shall be clear and convincing.

Section 12.03 Hearing

(A) Upon receipt of a request for hearing the Tribal Court shall schedule a hearing within 90 days from the date the hearing request is filed and provide written Notice of Hearing to the person requesting the hearing ("Defendant") and the Tribal Police Department. The Notice of Hearing shall state the date, time and place of hearing and shall be issued at least 30 days prior to the date of the hearing. The Notice of Hearing to the Tribal Police Department shall include as an attachment a copy of the Defendant's completed request for hearing form.

(B) If the Tribal Police Officer submits an additional written report concerning the citation to the Tribal Court for consideration at the hearing, then the Police Department, at least 15 days prior to the hearing, shall make a copy of this report available for inspection by the person cited and copy upon request.

(C) The Defendant or the Tribe may request one (1) continuance for any reason, provided that Tribal Court is given the request for a continuance at least five (5) business days in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than 60 days after the hearing request was filed. A request for continuance made less than five (5) business days before the scheduled hearing may be granted by the Tribal Court Judge based upon exigency only.

(D) All hearings shall be open to the public unless the Tribal Court finds good cause for the hearing to be closed. Examples of good cause include, but are not limited to, a party's request that the hearing be closed. At the hearing, both the

Tribe and the Defendant shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the citation. The Tribe and Defendant may appear personally or through an attorney. Pre-hearing discovery is not authorized, but subpoena of witnesses and documents shall be permitted as authorized by tribal law or the Tribal Court's Rules of Court. Consistent with the Rules of Court Procedure and Evidence the Tribal Court is authorized to conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing.

(E) The Tribal Court may continue the hearing and request additional information from the Tribal Police Officer or the Defendant prior to issuing a written decision.

Section 12.04 Tribal Court Decision

(A) After considering all the testimony and evidence submitted at the hearing, the Tribal Court Judge shall issue a written decision to uphold or dismiss the citation and the reasons for that decision, including written findings on each violation. The decision of the Tribal Court Judge shall be issued within thirty (30) days following completion of the hearing.

(B) If the Tribal Court Judge determines the citation should be upheld, he or she may apply any of the following remedies:

- (1) Issue an injunction, by ordering the Defendant to temporarily or permanently refrain from conducting the acts or actions that gave rise to the citation.
- (2) Impose fines in an amount not to exceed the maximum provided in the Judgment Schedule adopted by the Tribal Council in effect on the date the violation occurred. In determining the amount of the fine, the Judge may take into account any or all of the following factors:
 - (a) the duration of the violation;
 - (b) the frequency, recurrence, and number of violations, related or unrelated, by the same violator;
 - (c) the seriousness of the violation;
 - (d) the economic impact of the violation on the community; and
 - (e) such other factors as justice may require.
- (3) Suspend the fine on the condition the Defendant does not commit any other violations of this Ordinance and complies with all Tribal Court orders relating to the violation during a specified period not to exceed one (1) year.
- (4) Order restitution to be paid to those affected by the violation.
- (5) Order community service in addition to or in lieu of a fine.
- (6) Such community service shall, if possible, be related to the offense.
- (7) Issue such other order as may be deemed fair and just by the Tribal Court including a public or private apology.

(C) If the Tribal Court Judge finds that a request for a hearing was completely without merit, he or she may hold the Defendant liable for, and order Defendant to pay, the Tribe's reasonable fees and costs, including attorney's fees.

(D) If the Tribal Court Judge determines the citation should be upheld, he or she shall set forth in the decision the payment schedule for the fine as well as for payment of any administrative costs assessed under Subparagraph C above. Late payment charges shall accrue and be payable in the amount and by the terms specified in the Judgment Schedule.

(E) If the Tribal Court Judge determines the citation should be dismissed, he or she shall issue a decision dismissing the citation.

(F) The Defendant and the Tribe shall be served with a copy of the decision within seven (7) calendar days of its issuance.

(G) The decision of the Tribal Court Judge shall be final upon service on the Defendant and not subject to further review.

Chapter 13. ***PENALTIES***

Section 13.01 General Penalty Provisions

(A) A person committing a violation under this Ordinance will be subject to a fine in an amount not to exceed the maximum provided in the judgment schedule adopted by the Tribal Council in effect on the date the violation occurred;

(B) In addition to, or in lieu of, the fine, the Tribal Court may grant such other relief as is necessary and proper, including, but not limited to the following: community service, restitution, treatment and/or counseling, banishment, debarment or traditional sanctions;

(C) The Tribal Court has the authority to forfeit property, suspend or cancel a license or permit, or cite for contempt.

Section 13.02 Fines Deferred

The Tribal Court may choose not to impose a fine for a period not to exceed one (1) year if justice so requires and the following criteria are met:

(A) The person has not committed any previous violations of this Ordinance; and

(B) The person does not commit any other violations of this Ordinance during the time the penalty is deferred or suspended; and

(C) The person does not commit any infractions, violations or offenses in any other jurisdictions during the time the penalty is deferred or suspended; and

(D) The person complies with all Tribal Court orders concerning the violation to the best of his or her ability.

Section 13.03 Community Service

The Tribal Court, at its discretion, may order community service in addition to or in

place of a money fine. The Tribal Court will determine if the person is a suitable candidate for community service. A person approved for community service by the Tribal Court shall be referred to as a Community Service Worker.

(A) *The Tribal Court, or designee, will;*

- (1) keep a log of both services requested and performed;
- (2) provide a form for verification of the Community Service Worker's hours of service.

(B) *Community Service is limited to service*

- (1) at Tribal Property; or
- (2) for a Tribal Agency; or
- (3) at the primary residence of a tribal elder.

(C) Tribal Agencies or elders who want the assistance of a Community Service Worker must submit a written request to the Tribal Court and assistance will be provided in the order that requests are received.

(D) The Community Service Worker will obtain written verification supporting the hours of service on the provided form and submit the form to the Tribal Court.

Section 13.04 Referral for Treatment

(A) In place of, or in addition to, a fine, the Tribal Court may refer a Defendant to mental health providers including an alcohol/substance abuse program, and/or social services program for counseling and/or treatment.

(B) After completion of an evaluation, the agency conducting the evaluation shall report its findings and recommendations to the Tribal Court or an officer assigned by the Tribal Court.

(C) The Tribal Court may order mental health providers to submit progress reports of treatment. An officer assigned by the Tribal Court will monitor the person's progress in his or her treatment program.

(D) Residential treatment is an option if requested by the person who violated this Ordinance and if recommended by a mental health provider, an alcohol/substance abuse program, or social services program.

Section 13.05 Enforcement of Civil Fines

(A) In any case where a person has been found to have committed a violation and a civil penalty has been assessed, the person has thirty (30) days to pay the civil fine. For good cause shown, the Tribal Court may extend the time for payment or approve an installment plan. Parent(s), guardians, or any adult responsible for the care of minor (a person under the age of 18) are liable for the civil fine of a minor.

(B) If the person has not paid the civil fine within the time allotted by the Tribal Court, the Court may take any and all actions necessary to collect the civil fine,

including but not limited to the following:

- (1) Refer the civil fine to a collection agency or other collection institution;
- (2) Order an on-Reservation employer to garnish up to twenty five (25%) percent of violator's wages;
- (3) Order the Tribal Administrator, or other appropriate tribal official, garnish up to one-hundred (100%) percent of the violators tribal per capita distribution, or revenue sharing distribution; or
- (4) Upon written request from the Tribe, issue a garnishment order against an off-Reservation employer or any other entity that issues the violator wages or money; or
- (5) Exclude the person from the Reservation generally, or specific areas within the Reservation until such time the fine has been paid.

Chapter 14. ***GENERAL PROVISIONS***

Section 14.01 Sovereign Immunity

The sovereign immunity of the Tribe shall extend to its Tribal Police Officer(s) to the extent permitted by federal and tribal law. The sovereign immunity of the Tribe is in no manner waived by this Ordinance, by any action by its Tribal Police Officers, or any of the employees of the Tribe or any tribal law enforcement officer acting pursuant to this Ordinance.

Section 14.02 Severability

If any part of this Ordinance is found invalid, the reminder of the Ordinance should not be affected and shall continue in full force and effect. The provisions of this Ordinance are severable.

Section 14.03 Prior Inconsistent Codes and Ordinances Repealed

All Ordinances or provisions of any previously enacted ordinances of the Tribe, that conflict in any way with the provisions of this Ordinance are hereby repealed.

List of ordinances that are repealed: Animal Control Ordinance.

Legislative History:

Adopted by the Tribal Council on November 20, 2012.

Amended: Section 6.04; Chapter 10 adopted by the Tribal Council on February 20, 2014.