



## **PEACE AND SECURITY ORDINANCE**

### **SECTION 3.25.01 TITLE**

This ordinance shall be referred to as the Peace and Security Ordinance.

### **SECTION 3.25.02 STATUTORY AUTHORIZATION**

The aboriginal and inherent sovereign power of the Bear River Band of the Rohnerville Rancheria is vested with the Bear River Tribal Council. The Bear River Tribal Council has the authority to safeguard and promote the peace, safety, morals and general welfare of the members of the Bear River Band by regulating the behavior of all persons within the jurisdiction of the Tribe, and to provide for the enactment and enforcement of the laws of the Tribe. This authority includes the authority to establish a Bear River Band Police Department and to provide for laws and procedures governing its operation, and the selection of a Chief of Bear River Band Police Department. The Tribal Court shall have subject matter jurisdiction over this Peace and Security Ordinance.

### **SECTION 3.25.03 PURPOSE**

The purpose of this law is protect the peace and security of all Tribal Members, guests of and visitors to the Bear River Band of the Rohnerville Rancheria from and against harassment, vandalism, disruption of the peace and other antisocial acts, both in public and in private.

### **SECTION 3.25.04 AUTHORITY**

The Bear River Band of the Rohnerville Rancheria Tribal Council, pursuant to the Constitution of the Bear River Band of the Rohnerville Rancheria, Article VIII Section 1, is vested with the authority to enact and enforce ordinances as are deemed necessary to safeguard and promote the peace, safety, health, and general welfare of the members of the Tribe.

### **SECTION 3.25.05 LIBERAL CONSTRUCTION**

This Ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. Furthermore, the Ordinance shall be interpreted and construed to:

- 1) Preserve the peace, harmony, safety, health and general welfare of the people of the Tribe and those permitted to enter or reside on the Rancheria;
- 2) Ensure peace and order on the Bear River Band of the Rohnerville Rancheria;
- 3) Promote the welfare of the Tribe and its members;
- 4) Safeguard individual rights and community standards;

- 5) Secure rights and powers, which are inherent in the Tribe's sovereign status;
- 6) Exert jurisdiction over all matters essential to the Tribe's self-determination and self-governance;
- 7) Treat all parties fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act, 25 U.S.C. § 1301 et seq. and by the traditions, customs and laws of the Tribe; and
- 8) Resolve disputes fairly and efficiently.
- 9) Nothing in this Peace and Security Ordinance grants a right to a jury trial.

## **SECTION 3.25.06            DEFINITIONS**

For the purposes of this Ordinance, the following definitions shall apply:

- 1) *Alter* - 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.
- 2) *Bodily Injury* - a cut, abrasion, bruise, burn, physical pain, causing illness, impairment of a function of a bodily organ, or mental faculties and/or any other injury to the body, no matter how temporary.
- 3) *Breach of the Peace* - conduct destroying or menacing public order and tranquility and may include acts of violence or acts or words likely to produce violence as well as acts or conduct that threaten the public peace.
- 4) *Civil Infraction* - a violation of Tribal law as set forth in this Ordinance.
- 5) *Controlled Substance* - any drug or other substance under the provisions of Chapter 13, Title 21, Section 802, "Controlled Substance" of the United States Code.
- 6) *Criminal Street Gang* - an ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts set forth in either Tribal, federal or state law.
- 7) *Damage* - loss, injury, or deterioration to Property causing it to decrease in strength, value, amount or quality.
- 8) *Dangerous Drug* - 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. The terms include a device or a drug that bears or is required to bear the legend: Caution: Federal law prohibits dispensing without a prescription; or Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.
- 9) *Dangerous Weapon* - any 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 (for example, clubs, brass knuckles).
- 10) *Deface* - damage to monuments, buildings or other structures by changing the physical appearance.
- 11) *Destroy* - to ruin the structure, organic existence or condition of a thing or Property, to demolish to injure or mutilate beyond possibility of use.

- 12) *Dumping* - the open disposal, depositing, burying, or non-permitted burning of any Waste Matter, including but not limited to the discarding or long-term storage of any items of Solid Waste commonly known as garbage, rubbish, refuse construction and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, Vehicle parts, fence wire and all other items and materials defined as "Waste Matter" below, and the discarding of any Vehicles which do not have value beyond scrap value and which are inoperable and unlicensed or which are considered abandoned due to the surrounding conditions.
- 13) *Dispose or Disposal* - to abandon, discharge, deposit, inject, dump, spill, leak, or place any substance into or on any land or water or so that such substances or any constituent thereof may enter the environment. The placement of biodegradable material in a properly maintained compost pile is not disposal of Waste Matter.
- 14) *Marking Tool* - any broad-tipped marker pen with a tip exceeding three-eighths of one inch in width, or any similar implement containing ink that is not water soluble.
- 15) *Financial Loss* - a loss of money or of something by which money or of value may be acquired.
- 16) *Firearm* - any devise designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion.
- 17) *Fire Hazard* - any condition or conduct, as determined by Tribal Administration, the Fire Department, Law Enforcement, Environmental Protection Department or any federal agency, which:
  - (a) Increases or may increase the threat of fire as determined or extinguishing fire; or
  - (b) May obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.
- 18) *Knowingly* - a person who acts when he or she is aware that his or her conduct will necessarily or likely cause a particular result, that there is high probability that certain circumstances exist, or deliberately avoids learning the truth.
- 19) *Large Party* - a party at which one hundred or more people are expected to attend and alcohol will be served.
- 20) *Litter* - the willful and/or negligent throwing, placing, sweeping, dropping, or scattering of small quantities of Waste Matter left in a place other than a place or container for proper disposal. Litter also includes any Waste Matter that escapes or is allowed to escape from a container or receptacle by a person on public Property, on Private Property not owned by the person, or in or on waters of the Rancheria.
- 21) *Marijuana* - 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.
- 22) *Marking Substance* - any substance or implement, other than aerosol paint containers and Felt Tip Markers that could be used to draw, spray, paint, etch, or mark.
- 23) *Motor Vehicle or Vehicle* - cars, any motorcycle, All Terrain Vehicle (ATV), trucks, pocket bike, motorized scooter, motorized skateboard, golf cart, motorized quad/tricycle, self-propelled wheelchair, electronic personal assistive mobility device, and all other forms of motorized transportation.

- 24) *Natural Formations* - trees, rocks, landscape formations and other items or features of cultural significance as determined by the Cultural Resources Director.
- 25) *Narcotic Drug* - any drug under the provision of Chapter 13, Title 21, Section 802, "Narcotic Drug" of the United States Code.
- 26) *Ordinance* - this Bear River Band of the Rohnerville Rancheria Ordinance, as amended from time to time.
- 27) *Person* - any individual, group, corporation, firm, partnership, joint venture, association, social club, estate, trust, or similar such entity, or a governmental entity, unit, or agency, whether Tribal, local, State, or Federal.
- 28) *Petitioner* - the Person who submits a Request for Hearing to the Bear River Tribal Court pursuant to § 15.214 of this Ordinance.
- 29) *Private Property* - any tangible personal Property and real Property such as land or structures and buildings affixed to land, whether owned in trust by the United States for the benefit of the Tribe, owned in fee by the Tribe or any Person, allotments where title is held in the name of the United States for the benefit of an individual Indian, or assignments of tribal trust land issued to tribal members and permitted successors-in-interest, or lands otherwise tribally-controlled or owned pursuant to 18 U.S.C.§1151.
- 30) *Probable Cause* - the existence of trustworthy facts or knowledge sufficient for a reasonable person to believe that an infraction pursuant to this Ordinance has been committed.
- 31) *Property* - both tangible personal Property and real Property such as land or structures and buildings affixed to land, whether owned in trust by the United States for the benefit of the Tribe, owned in fee by the Tribe or any Person, allotments where title is held in the name of the United States for the benefit of an individual Indian, or assignments of tribal trust land issued to tribal members and permitted successors-in-interest, or lands otherwise tribally-controlled or owned pursuant to 18 U.S.C.§1151.
- 32) *Property Owner* - any person in legal possession of land.
- 33) *Reasonable Suspicion* - the quantum of knowledge that leads a prudent enforcement officer to believe, supported by articulable facts, that a civil infraction will be or has been committed in violation of or pursuant to this Ordinance
- 34) *Recklessly* - a person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him/her.
- 35) *Request for Hearing* - the portion of the civil citation completed by a Petitioner to request a hearing in the Bear River Tribal Court pursuant to § 15.214 of this Ordinance.
- 36) *Rancheria* - all lands within the boundaries of the Bear River Band of the Rohnerville Rancheria, including, but not limited to:
  - (a) All lands within the territorial boundaries of the Bear River Band of the Rohnerville Rancheria as established by the Executive Order of the President issued on March 2, 1881, the Mission Indian Relief Act, 26 Stat. 712 (1891), the trust patent issued by the President U.S.C. 461 and its implementing regulations, and such other lands as may thereafter be added thereto or made a part thereof; and

- (b) All other trust, restricted, or tribally owned lands, regardless of whether they have been formally added to or made part of the Bear River Band of the Rohnerville Rancheria.
- 37) *Tribal Council* - the seven (7) member Tribal Council established under the Tribal Constitution. "Tribal Council" shall be synonymous with "Bear River Tribal Council" as may be used in this Ordinance or any existing or future Tribal Ordinance.
- 38) *Tribal Court* - the Bear River Tribal Court or other tribal forum designated by the Tribal Council to hear and decide violations of Tribal Law.
- 39) *Serious Bodily Injury* - bodily injury, which involves substantial risk of death, extreme physical pain or disfigurement, protracted loss or impairment of the function of a bodily organ, or mental faculties.
- 40) *Schedule of Fines* - the minimum monetary penalties assigned to civil infractions described in this Ordinance.
- 41) *Solid Waste*- any yard waste, garbage, refuse, rubbish, sludge or other discarded or disposed materials, including solid, liquid or semi-solid, or contained gaseous material resulting from any operation, activity, or source.
- 42) *Tribal Government* - the administrative and executive arms of the Tribe, its departments, committees, political subdivisions, agencies and enterprises.
- 43) *Tribal Administration Enforcement Officer* - the Tribal Administration official(s), including the Bear River Band Police Department, Housing Department, Environmental and Natural Resources, Public Works and others designated by the Tribal Council to enforce this Ordinance and authorized to act for the Band.
- 44) *Tribal Law Enforcement* - the department of the Tribe authorized to enforce some or all parts of this Ordinance.
- 45) *Tribal Law Enforcement Officer* - a Person designated by the Band and authorized to enforce this Ordinance and act as a law enforcement, or peace officer for the Band on the Rancheria.
- 46) *Tribal Member* - an enrolled member of the Tribe.
- 47) *Tribal Property* - all tangible personal Property and real Property such as land or structures and buildings affixed to land, whether owned in trust by the United States for the benefit of the Tribe, owned in fee by the Tribe or lands otherwise tribally-controlled or owned pursuant to 18 U.S.C.§1151.
- 48) *Tribally Approved Function* - a social, governmental, educational or cultural event on the Rancheria that has been approved by Tribal Administration or the Tribal Council.
- 49) *Tribe* - the Bear River Band of the Rohnerville Rancheria, Loleta, California, and the agencies, entities, and enterprises of the Tribe, as appropriate, either together or separately.
- 50) *Waste Matter* - a discarded, used, or leftover substance, including but not limited to any garbage, trash, refuse, solid waste, paper, packaging, construction material, carcass of a dead animal, nauseous or offensive matter of any kind, abandoned automobiles , automobile parts, furniture, cigarette, cigar, match, flaming or glowing material, or any object likely to injure a person or create a traffic hazard, and includes the following categories:

- (a) *Combustible Rubbish* - paper, rags, discarded household bedding, packing materials, cartons, boxes, containers, grass, plants, shrubs, trees, vines, and the pruning thereof, shavings, sawdust, chips, lumber scraps or other chapters from lumberyards, mills or factories and all other waste which will bum upon contact with flames of ordinary temperature.
- (b) *Construction and Demolition Debris* - dirt, sweepings, bricks, mortar, plaster and other building and construction materials, whether combustible or noncombustible, resulting from the repair, remodeling, demolition or construction of buildings, or other structures.
- (c) *Garbage* - any accumulation of animal, vegetable, fruit or other biodegradable materials resulting from the preparation, selling, serving or consumption of edible foodstuffs, including the cans, containers or wrappers wasted along with such materials; or resulting from the dealing in, handling, processing, storage or decay of meats, fish, fowl, fruits, vegetables or grains; or the excrement, carcasses or residue of animals, fish or fowl; or other industrial, commercial or domestic organic solid wastes.
- (d) *Hazardous and Toxic Waste* - any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant or a strong sensitizer which generates pressure through decomposition, heat or other means, and similarly hazardous waste materials, if such waste or mixture of wastes may cause substantial personal injury, serious illness, or harm to humans, water contamination , domestic animals or wild life during, or as a proximate result of, any disposal of such wastes as defined in Article 2, Chapter 2.5, Section 25117 of the California Health and Safety Code. The terms "toxic", "corrosive", "flammable", "irritant" and "strong sensitizer" shall be given the same meaning as in the California Hazardous Substances Act, Chapter 4 of Division 104 of the California Health and Safety Code, commencing with Section 108100.
- (e) *Miscellaneous and Bulky Debris* - all garbage, rubbish and other discarded materials not otherwise provided for in the foregoing or following definitions of this Section 15.204(mm), including, appliances, furniture, large auto parts, trees, branches, stumps, or amounts of garbage or rubbish collected at each collection in excess of the maximum amounts permitted by this Ordinance, and other wastes the size, weight, or volume of which precludes or complicates their handling by normal collection methods.
- (f) *Noncombustible Rubbish* - among other things, ashes, bottles, broken glass, crockery, earthenware, metal cans, metal ware, wire products, discarded metal or stone, automobile tires, inner tubes, batteries and metal kegs, barrels or casks.

## **SECTION 3.25.07 CIVIL INFRACTIONS AGAINST PROPERTY**

- 1) Malicious Mischief - A person commits the Civil Infraction of Malicious Mischief if he or she, without consent of the Property Owner or Tribe:

- (a) Damages or Destroys Property of another;
  - (b) Tamper with Property of another and causes Financial Loss or substantial inconvenience to the Property Owner or a third person;
  - (c) Possesses any kind of Marking Substance with the intent to commit vandalism or graffiti with a marking tool or substance that can be used to draw, spray, etch or mark.
  - (d) Alters, Defaces or damages Property of another, which may include a monument, structure or facility, place of worship or burial ground, Natural Formations, or any other Property of another; or
  - (e) Aids, assists, commands, or counsels another to commit Malicious Mischief.
  - (f) A person commits the Civil Infraction of Malicious Mischief if she or he possesses an aerosol paint container, marking tool, a felt tip marker, or any other marking
  - (g) Substance with the intent to commit vandalism or graffiti.
  - (h) Unlawful taking of Property from another person or business worth \$950 or less.
  - (i) Unlawful taking of Property from another person or business worth more than \$950.
  - (j) Breaking or entering a residential or commercial building with the intent to commit a felony or theft once inside.
- 2) Trespass - A Person commits the Civil Infraction of Trespass if he or she:
- (a) Enters or remains, or causes any object to enter or remain, on Tribal or Private Property of another;
  - (b) Had notice that the entry was forbidden;
  - (c) Was ordered to depart after entry and failed to do so; or
  - (d) Has been excluded from the Rancheria by a Bear River Band Tribal Court Order.
    - (i) Notice or an Tribal Court Order may be given by:
      1. Written or verbal communication given to the trespasser by a Tribal Administration Enforcement Officer or the owner of the Property or person authorized to act on behalf of the Property Owner;
      2. Written notice posted on or about the Property in a manner reasonably likely to come to the attention of any trespasser; or
      3. Fences, barricades or other devices obviously designed to enclose the Property and to exclude all potential intruders.
    - (ii) Written exclusion order issued by the Bear River Band Tribal Court:
      1. An infraction of Trespass if committed in a private dwelling, Tribal dwelling or where the trespasser carry a Dangerous Weapon or Firearm on or about his or her person during the commission of the infraction of Trespass shall be subject to a tripling of the maximum fine as provided for pursuant to the Schedule of Fines.
- 3) Nuisance & Public Nuisance
- (a) A person commits the Civil Infraction of Nuisance whenever conduct by a person in the use of his or her own Property substantially and unreasonably interferes with the use and enjoyment of Property of another, and such interference would be

considered offensive, inconvenient or annoying to the average person in the community.

- (b) A person commits the Civil Infraction of Public Nuisance whenever conduct by a person unreasonably interferes with the health, safety, or Property rights of the community that causes damages to the public at large.
- 4) Reckless Damage or Destruction - A person commits the Civil Infraction of Reckless Damage or Destruction if, without the consent of the Property Owner, he or she Recklessly damages or Destroys Property of another.
- 5) Arson - A person commits the Civil Infraction of Arson when he or she intentionally sets fire to, or burns, or causes to be burned, or aids, counsels, or assists in the burning of the dwelling or Property of another, including any trailer, Motor Vehicle, camper, structure, barn, stable, crops or open area of the Rancheria, unless such burning has been expressly authorized in writing by a Tribal Administration Enforcement Officer.

### **SECTION 3.25.08 CIVIL INFRACTIONS AGAINST THE PEACE**

- 1) Disorderly Conduct - A person commits the Civil Infraction of Disorderly Conduct if he or she:
  - (a) Fights, or challenges to fight, any other person located on the Rancheria;
  - (b) Creates any excessive noise, or allows or permits the creation of any excessive noise on Property owned, leased, occupied or otherwise controlled by such person which causes or creates a Nuisance;
  - (c) Brandishes a Dangerous Weapon or Firearm in an offensive manner;
  - (d) Abuses or threatens a person in an obviously offensive manner;
  - (e) Engages in lewd behavior and is reckless about whether other persons present would be alarmed by his or her act; or
  - (f) Uses abusive, indecent, profane, or vulgar language on Tribal Property, and the language by its very utterance tends to incite a Breach of the Peace.
  - (g) Discharges a Firearm on the Rancheria except by:
    - (i) Tribal Law Enforcement Officers acting in the scope of their authority and in the performance of their official duties;
    - (ii) Any other state, federal or Tribal Law Enforcement Officer acting within the scope of their authority and in the performance of their official duties;
    - (iii) Tribal members at a shooting area officially designated by the Tribal Council.
  - (h) Urinating or defecating in a public area on the Rancheria. This section shall not apply to a person who cannot comply with this section as a result of a disability, age, or a medical condition.
  - (i) Possess an open alcoholic beverage in a public area.
- 2) Possession of a Dangerous Weapon and/or Firearm - A person, other than state, federal or Tribal Law Enforcement Officer, commits the Civil Infraction of Possession of a Dangerous Weapon and/or Firearm if he or she carries on or about his or her person a Dangerous Weapon and/or Firearm, as defined in this Ordinance.



- (a) Any Tribal Law Enforcement Officer may, upon probable cause, confiscate a Dangerous Weapon and/or a Firearm from any person who violates this subsection 3.25.08 (2).
- (b) Tribal members may possess Firearms but only on their private Property.
- 3) Loitering and Curfew - A person commits the Civil Infraction of Loitering whenever a person is without a legitimate purpose, physically remains on, at or near Tribal Property, including buildings, facilities or businesses on the Rancheria unless it is a Tribally Approved Function.
  - (a) A person violates curfew if:
    - (i) He or she is a minor (under the age of 18 years old) who remains on the streets or on Tribal Property between the hours of 10:00 p.m. and 6:00 a.m., unless it is during a Tribally Approved Function; and/or
    - (ii) He or she is a parent, guardian or custodian of a minor and Knowingly permits or by insufficient supervision and control allows the minor to remain on any streets or Tribal Property between 10:00 p.m. and 6:00 a.m., unless it is during a Tribally Approved Function.

**SECTION 3.25.09                    CIVIL INFRACTIONS AGAINST THE TRIBAL GOVERNMENT**

- 1) Interfering with Lawful Duties - A person commits the Civil Infraction of Interfering with Lawful Duties if by force, violence or other means, he or she:
  - (a) Interferes, obstructs or resists any Tribal Administration Enforcement Officer or federal, state or Tribal Law Enforcement Officer in the performance of their official duties;
  - (b) Flees from any federal, state or Tribal Law Enforcement Officer who is attempting to lawfully carry out his or her duties.
- 2) Aiding, Abetting, and Harboring a Criminal or Excluded Person - A person commits the Civil Infraction of aiding, abetting and harboring a criminal or excluded person whenever a person aids, abets, or harbors a fugitive of Tribal , federal or state law, a person excluded from the Rancheria, or a member of a Criminal Street Gang.
- 3) Violation of Tribal Council Resolution - Any person commits the Civil Infraction of violating a Tribal Council Resolution if he or she willing knows a Tribal Council Resolution has been enacted and willfully disobeys the terms as written in the Tribal Council Resolution, where the Resolution was lawfully issued by Bear River Band Tribal Council.

**SECTION 3.25.10                    CIVIL INFRACTIONS AGAINST PERSONS AND ANIMALS**

- 1) Battery - A person commits the Civil Infraction of Battery if he or she:
  - (a) Causes Bodily Injury to another;
  - (b) Causes Serious Bodily Injury to another;
  - (c) Threatens another with imminent bodily or serious bodily injury;

- (d) Causes physical contact with another when the person knows or should reasonably believe that the person will regard the contact as offensive or provocative;
  - (e) Uses or exhibits a weapon during the commission of a Battery; or
  - (f) Forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any authorized Tribal Law Enforcement Officer or other law enforcement officer lawfully discharging an official duty.
  - (g) When a battery is committed against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship.
- 2) Aggravated Battery - A Person commits the Civil Infraction of Aggravated Battery whenever a Person uses or exhibits a weapon during the commission of a Battery pursuant to Section 3.25.10 (1).
  - 3) Elder Abuse - A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care of custody of any elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered.
  - 4) Cruelty to Animals - A person commits the Civil Infraction of Cruelty to Animals if he or she:
    - (a) Physically mistreats an animal either by abuse or failure to furnish minimum care. Physical mistreatment of an animal shall include, but is not limited to, the killing, maiming, mutilating, beating, torturing, wounding, tormenting an animal and/or depriving an animal necessary sustenance, drink, food or shelter, or chaining or tying an animal in a confined area.
    - (b) Animals may be impounded under Section 3.25.10 (3) of this Ordinance. The owner of the animal, or the person in possession and control of the animal, shall be liable for all impounding costs and fees.
  - 5) Animals at Large - A person commits the Civil Infraction of Animals at Large if he or she permits an animal, other than a domestic cat, to be at large on the Rancheria or not otherwise under the physical control of the animal owner or not physically contained on the animal owner's or a person's Property or in the animal owner's or a Person's Motor Vehicle.
    - (a) Animals may be impounded under Section 3.25.09 (4) of this Ordinance. The owner of the animal, or the person in possession or control of the animal, shall be liable for all impounding costs and fees.

**SECTION 3.25.11 CIVIL INFRACTIONS AGAINST MINORS AND PERSONS UNDER THE AGE OF 21**

- 1) **Furnishing Alcohol to Persons Under the Age of 21** - A person commits the Civil Infraction of furnishing alcohol to a person under the age of 21 when he or she gives, purchases for, or furnishes to any person under the age of 21 any alcohol beverages, or Controlled Substances.
- 2) **Distributing Tobacco Products to Minor** - It shall be a violation of this Ordinance to give, purchase for, or furnish, tobacco products to any person under the age of 21.

**SECTION 3.25.12 DRUG AND ALCOHOL CIVIL INFRACTIONS**

- 1) **Chemical Intoxication** - A person commits the Civil Infraction of Chemical Intoxication if he or she:
  - (a) Inhales, ingests, applies, uses, or possesses a substance containing a volatile chemical, abusable glue, aerosol paint or aerosol with the intent to affect the person's central nervous system, create or induce a condition of intoxication, hallucination, or elation, change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.
  - (b) Sells, offers for sale, delivers or furnishes to any person under the age of 18 any volatile chemical, abusive glue or aerosol paint.
- 2) **Possession or Consumption of Controlled Substances** - A person commits a Civil Infraction of Possession or Consumption of Controlled Substances, if without a medical prescription and/or license, a person grows, manufacturers or distributes, sells, or offers to sell a Controlled Substance or any paraphernalia in connection therewith.
- 3) **Intoxication on Tribal Property** - A person commits the Civil Infraction of 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, unless the intoxication is for therapeutic purposes and as part of the person's professional medical treatment by a licensed physician.

**SECTION 3.25.13 CIVIL INFRACTIONS AGAINST MOTOR VEHICLE OPERATIONS**

- 1) **Unlawful Operation of Motor Vehicle** - A person commits the Civil Infraction of Unlawful Operation of Motor Vehicle when he or she:
  - (a) No person shall operate a Motor Vehicle within the Bear River Band of the Rohnerville Rancheria while not in possession of a valid license to drive.
  - (b) No person shall operate a Vehicle that is not equipped as required by, or in violation of, the California Vehicle Code provisions relating to lighting equipment (Division 12. Chapter 2. §24250 through §26106.), brakes (Division 12. Chapter 3. §26522.), tires (Division 12. Chapter 5. Article 4. §27450 through §27453.), and size, weight, and load limits (Division 15. §3500 through §35796.).

- (c) Every passenger Vehicle, other than motorcycles, shall be equipped with an adequate windshield.
- (d) No person shall operate a Motor Vehicle when the windshield or rear window is such a defective condition as to impair the driver's vision either to the front of the rear.
- (e) The windshield on every Motor Vehicle, except a motorcycle, shall be equipped with a wiper to clean rain, snow or other moisture from the windshield. The wiper shall be controlled by the operator of the Vehicle and maintained in a good working order.
- (f) No Vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any roadway, when it is practicable to stop, park, or leave such Vehicle elsewhere. If it is impossible to move the Vehicle from the traveled portion of the roadway, the driver shall make every effort to leave all possible width of the roadway opposite the Vehicle for the free and safe passage of other Vehicles and shall take care to provide a clear view of the standing Vehicle as far as possible to the front and rear.
- (g) All persons in passenger Vehicles, except motorcycles, shall have a safety belt, which meets the standards of the Society of Automotive Engineers, properly fastened about the body at all times when the Vehicle is in motion.
- (h) It shall be a Civil Infraction for any parent, guardian or custodian of an infant or child eight years of age or younger and weighing under eighty (80) pounds to permit a child or ward to be transported in a non-commercial Motor Vehicle without providing and properly securing the child or ward, in a child passenger restraint system meeting applicable federal Motor Vehicle safety standards.
- (i) A parent, legal guardian, or other person responsible for a child who is six (6) years of age or younger may not leave that child inside a Motor Vehicle without the supervision of a person who is twelve (12) years of age or older, under either the following circumstances:
  - (1) Where there are conditions that present a significant risk to the child's health or safety.
  - (2) When the Vehicle's engine is running or the Vehicle's keys are in the ignition, or both.
  - (3) No person shall operate a motorcycle or ATV anywhere on the Rancheria without a spark arrester and muffler.
- (j) No person shall operate a motorcycle or ATV without a helmet, unless the ATV is equipped with a seatbelt and is worn by the operator.
- (k) All Vehicles including ATV's and off road Vehicles shall obey all traffic laws and instructions of any traffic sign, signal, and markings, unless directed by a peace officer, within the boundaries on the Bear River Band of the Rohnerville Rancheria.

- (l) No person shall drive a Vehicle upon a roadway on the Rancheria at a speed greater than the posted speed limit within that area. The speed limit on all unpaved roads is 25 M.P.H.
- (m) The driver of a Vehicle shall not follow another Vehicle more closely than is reasonable, having due regard for the speed of the Vehicle and the conditions of the roadway.
- (n) No person shall turn a Vehicle from a direction course or move right or left upon a roadway until such movement can be made with reasonable safety and then only after the giving of an appropriate signal.
- (o) No person shall park in a disabled person, disabled veteran, or tribal elder displaying special identification license plates or a distinguishing placard issued under tribal, federal, or state law.
- (p) No person shall drive a Motor Vehicle within the Bear River Band of the Rohnerville Rancheria unless the person holds a valid license.
- (q) No person shall operate a Motor Vehicle with the intent to evade a pursuing law enforcement Vehicle if:
  - (i) The pursuing Vehicle exhibits at least one lighted red lamp visible from the front and the person either sees or reasonably should have seen the red lamp.
  - (ii) The pursuing Vehicle is operated by a uniformed peace officer.
- (r) No person shall engage in any Motor Vehicle speed contest in which Vehicles exceed the speed limit. A Motor Vehicle speed contest includes a Motor Vehicle race against another Vehicle, a clock, or other timing devices.
- (s) No person shall throw any substance at a moving Vehicle or any occupant thereof.
- (t) No driver or passenger shall possess, while in a Motor Vehicle upon a roadway, an opened container containing an alcoholic beverage, unless the container is kept in the trunk of the Vehicle. If the Vehicle is not equipped with a trunk, the container shall be kept in some other area of the Vehicle that is not normally occupied by the driver or passengers.
- (u) No person shall operate a Vehicle in willful or wanton disregard of the safety of persons or Property.
- (v) No person shall operate a Vehicle under the influence of any alcoholic beverage or drug(s).
- (w) It is unlawful for a person with a 0.08 percent or more, by weight, of alcohol in his or her blood to drive a Vehicle. Any person who is in violation of California state law by having 0.08 percent or more, by weight, of alcohol in his or her blood while driving a Vehicle may be guilty of a separate offense under California law.
- (1) For purposes of this section, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. In any prosecution under this provision, it is acceptable to use readings of portable breath alcohol measuring devices to prove a violation of this section.

(2) For purposes of this Section, under the influence means that the driver's ability to operate a Vehicle in the manner of an ordinary prudent a cautious person, using reasonable care, with full possession of faculties, and under similar circumstances, is appreciably impaired. Any person who violates this Section is guilty of an infraction punishable by a fine.

(x) A person shall not drive, move, or leave standing upon any roadway, any Motor Vehicle located on the Rancheria without valid registration.

(y) When two license plates are issued by the California Department of Motor Vehicles for use upon a Vehicle, they shall be attached to the Vehicle for which they were issued, one in the front and one in the rear.

(z) Every person who drives a Motor Vehicle upon a roadway within the Rancheria must provide evidence of financial responsibility (insurance) for the Vehicle that is in effect at the time the demand is made by a Bear River Band Police Officers.

2) Authority to Store Motor Vehicles - A Bear River Tribal Law Enforcement Officer may authorize removal and storage of a Motor Vehicle located within the Bear River Rancheria under the following circumstances:

- (a) When a Vehicle is left parked or left standing upon any tribal road in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the roadway.
- (b) When a Vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the Vehicle from in front of the driveway to another point on the roadway.
- (c) When a Vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impractical to move the Vehicle from in front of the fire hydrant to another point.
- (d) When a Vehicle is left parked or standing upon any Tribal Property that is "Restricted and/or posted areas for "Authorized Vehicle Use Only".
- (e) When a Vehicle is left on Tribal Property and lacks or is missing any of the following: engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on a road way.
- (f) When a Vehicle is illegally parked on a road or other Tribal Property in violation of a temporary ban forbidding the standing or parking and the use of a road way or Tribal Property is necessary for the cleaning, repair, or construction of the road way, or for the installation of underground utilities, or any Special Tribal Event, and signs giving notice that Vehicle may be removed are erected or placed at least 24 hours prior to the removal by Tribal Law Enforcement.
- (g) When a Vehicle is parked or left standing in a location where Tribal Council, whether by resolution or ordinance, prohibits parking and authorizes the removal of Vehicles.

## **SECTION 3.25.14            CIVIL INFRACTIONS AGAINST HEALTH AND SAFETY**

- 1) Unlawful Dumping Activities - It shall be a violation of this Ordinance:
  - (a) For any person to dump, place, deposit, store, or accumulate any Waste Matter within the boundaries of the Rancheria in a manner that is harmful to the public health and safety, as determined by a Tribal Administration Enforcement Officer or any federal agency in the discharge of a trust obligation on the Rancheria.
  - (b) For any person to dump or cause to be dumped any Waste Matter within the Rancheria in or upon any:
    - (i) Public or private highway or road;
    - (ii) Private Property into or upon which the public is admitted by easement or license;
    - (iii) Private Property, without the consent of the owner; or
    - (iv) Public Park or other public Property other than Property designated or set aside for that purpose by the Tribal Council.
  - (c) For any person, regardless of intent, to Litter or deposit Waste Matter or cause Litter or Waste Matter to be deposited on any public Property, on Private Property not owned by him or her, or in or on waters of the Rancheria unless:
    - (i) The person is directed to do so by the Tribal Chairperson or officially designated representative of the Tribe as part of a Litter collection drive; or
    - (ii) The person deposits the Litter or Waste Matter in a Solid Waste receptacle in a lawful manner that prevents it being carried away by the elements.
  - (d) For any person to place any Solid Waste in a dumpster, garbage can, or other Solid Waste container belonging to another person without the permission of the receptacle owner legally entitled to own and use said dumpster, garbage can, or other Solid Waste container.
  - (e) For any person to place, leave, dump, or permit the accumulation of unused, large bulky debris, such as white goods (refrigerators, stoves, etc.) or inoperable cars or trucks or parts thereof, in any open and visible location on the Rancheria.
  - (f) For any person to conduct open burning of any solid wastes on the Rancheria, except permitted pursuant to Tribal law.
  - (g) For any person to transport Solid Waste and Waste Matter unless, while being transported, the Solid Waste and Waste Matter is covered, tied, or otherwise secured so that Solid Waste and Waste Matter will not be blown or dropped from the transport Vehicle.
  - (h) For any person to operate a landfill or Solid Waste Disposal site or operate a Solid Waste collection system.
  - (i) For any person to generate, store transfer, transport, treat, or discharge, release, or Dispose of a Hazardous waste through the conduct of any business on the Rancheria.

- (j) For any person to conduct open burning of any solid wastes on the Rancheria, except as permitted Pursuant to Tribal law.
  - (k) For any person to transport Solid Waste and/or Waste Matter unless, while being transported, the Solid Waste and Waste Matter is covered, tied, or otherwise secured so that Solid Waste and/or Waste Matter will not be blown or dropped from the transport Vehicle.
- 2) Exceptions - This Ordinance shall not be construed to restrict a Tribal member's use of his or her Property with an assignment or allotment, unless:
    - (a) The placing, depositing or storing of such Waste Matter on such Property creates a public health and safety hazard, a Nuisance or Public Nuisance, or Fire Hazard, as determined by Tribal Administration Enforcement Officer charged with the protecting the health, safety, and welfare of the tribal community; and
    - (b) The Tribal Member continues to place, deposit, or store the Waste Matter after the date specified for removal by the citing officer set forth in the written removal notice from a Tribal Administration Enforcement Officer charged with protecting the health, safety, and welfare of the tribal community.
  - 3) This Ordinance shall not be construed to prohibit a farmer or rancher from Disposing Solid Waste resulting from normal farming operations upon his or own Property; provided, however that such Disposal does not create a public health and safety hazard, a Nuisance, or Public Nuisance, or a Fired Hazard, and does not otherwise violate any Tribal law.

### **SECTION 3.25.15 PROHIBITION OF LARGE PARTIES & GATHERINGS**

Unless expressly authorized in writing by the Tribal Administrator, any Large Party, gathering, event or loud and unruly assemblages on the Bear River Reservation are strictly forbidden and may result in monetary sanctions for violations of this Ordinance.

- 1) Evidence of a Large Party. A written description of the event shall be prima facie evidence that a Large Party took place.
- 2) Joint and Several Liability for a Large Party.
  - (a) Cost Liability. In addition to monetary penalties for violations of this Ordinance pursuant to Section 3.25.15, when a Large Party, gathering, event or loud and unruly assemblage occurs or is held that results in a disruption to the peace, health, safety or general welfare of the Bear River Band members and/or Bear River Reservation, the persons in-charge of the premises and/or the persons responsible for the Large Party, or if either of those persons is a minor, then the parents or guardians of the minor, will be held jointly and severally liable for monetary penalties and the costs of providing law enforcement and first responder personnel to restore the peace, health, safety and general welfare of the Bear River Band and/or the Bear River Reservation.
  - (b) First Responder Cost Calculation. In addition to monetary penalties for violations this Ordinance pursuant to Section 3.25.15 2. a), persons in-charge of the premises



and/or responsible for the Large Party shall be liable for each and every instance of response by law enforcement or first responders, which costs shall include costs of personnel, equipment, contractual costs, damages to Tribal Property and/or injuries to tribal or county personnel. The charges assessed will be the actual cost of service for controlling the disturbance and restoring the public peace, health, safety or general welfare at the location of the disturbance on the Bear River Reservation and shall be the greater of the current rate being charged to the Bear River Band by the city or county sheriff's department, pursuant to any mutual aid agreement or contract, or the reimbursable hourly rate of personnel and equipment costs charged by the Bear River Band of delivery of mutual aid services to other governments.

- (c) In addition to subsections 2) (a) and 2) (b), persons in-charge of the premises and/or responsible for the Large Party shall be liable for damages to tribal or public Property on the Bear River Band of the Rohnerville Rancheria, the amount of which shall be determined by an official written estimate from the Bear River Band.
- (d) In addition to subsections 2) (a) and 2) (c), persons in-charge of the premises and/or responsible for the Large Party shall be liable for damages to tribal or public Property on the Bear River Reservation, the amount of which shall be determined by an official written estimate from the Bear River Band.

### **SECTION 3.25.16 CIVIL INFRACTIONS COMMITTED BY JUVENILES**

Every Tribal Youth that commits an act in violation of the following offenses or in violation of California state criminal or juvenile law may be deemed to have committed an offense under this Section.

#### **1) Status Offenses**

- (a) Persistently or habitually refusing to obey the reasonable and proper orders or directions of his or her parents, guardian, or custodian.
- (b) Unexcused loitering or remaining in any public place within the Bear River Rancheria Tribal Lands during curfew hours.
- (c) Unexcused absences from school (truancy).
- (d) Possession of Alcohol: Consumption, physical possession, or constructive possession of an alcoholic beverage.
- (e) Possession of Tobacco: Purchasing, receiving, or possessing any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco.
- (f) Possession of Controlled Substances: Possessing any substance defined as a Controlled Substance by federal law without a valid written prescription. The Bear River Band of the Rohnerville Rancheria does not recognize prescription of medical Marijuana as valid.

- (g) Sale of Controlled Substances: Transporting, importing onto Tribal Lands, selling, furnishing, administering, or giving away, or offering to perform those acts regarding any Controlled Substance as defined by Federal Law.
- (h) Assault: A threat or volitional act by a youth, coupled with a present ability, to commit a violent physical contact with the person of another.
- (i) Battery: Any willful and unlawful use of force or violence by a youth.
- (j) Indecent Exposure: Willfully and lewdly exposing one's person, or the private parts thereof, in any public place, including via electronic communication or in any place where there are present other persons to be offended or annoyed thereby.
- (k) Sexual Misconduct: Willfully and lewdly committing any unwelcome sexual or lascivious act, including any of the other acts in this section, upon or with the body, or any part or member thereof, of a youth or any person, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the youth. Such cases will be referred to appropriate registration as required by Federal Law.
- (l) Destruction of Property and Vandalism: Maliciously destroying or defacing with graffiti or other material the real or personal Property of another.
- (m) Joyriding: Driving or taking away any motor vehicle without the consent of the owner or lawful possessor, or participates with any other person in such conduct, with the intent of temporarily depriving the owner or rightful possessor of the use of the same, or of temporarily making use of the motor vehicle.
- (n) Theft of Property: Stealing, taking, carrying, leading, or driving away the personal property of another, or fraudulently appropriating property which has been entrusted to him or her, or knowingly and designedly, by any false or fraudulent representation or pretense, defrauding any other person of money, labor or real or personal property.
- (o) Finding Lost Property: Under circumstances which give him knowledge of or means of inquiry as to the true owner and appropriating such property to his own use, or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and to restore the property to him, shall also constitute theft.
- (p) Receiving Stolen Property: Buying or receiving any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or concealing, selling, withholding, or aiding in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained.
- (q) Burglary: Entering any house, room, apartment, office building, or other temporary or permanent building, tent, vessel, vehicle, sealed cargo container (whether or not mounted on a vehicle) with intent to commit theft or any other offense or crime.
- (r) Cruelty to Animals: Maliciously and intentionally maiming, mutilating, torturing, neglecting or wounding or otherwise causing unjustifiable pain or suffering to a

domesticated living animal, or maliciously and intentionally killing any domesticated animal.

- (s) Aiding and Abetting: Assisting or facilitating the commission of a crime or offense, or promotes accomplishment of a crime or offense, provided that a youth shall not be adjudicated as committing aiding and abetting if no person is adjudicated guilty of committing the underlying offense or crime.
- (t) Brandishing a Deadly Weapon: Drawing or exhibiting any firearm, whether loaded or unloaded or any other deadly weapon in a threatening manner in the presence of any other person, except in reasonable self-defense.
- (u) Possession of Destructive Devices: Recklessly or maliciously possessing any destructive device or any explosive in public or where people are likely to be.
- (v) Brandishing Imitation Firearms: Drawing or exhibiting an imitation firearm in a threatening manner against another in such a way as to cause a reasonable person apprehension or fear of bodily harm, except in reasonable self-defense.
- (w) Concealing Weapons: Being in a public place armed with a deadly weapon concealed upon his or her person without a valid permit. The court, in addition to any other disposition authorized by law, may confiscate and dispose of the weapons so carried.
- (x) Possession of a Loaded Firearm in Vehicle: Possessing a loaded firearm (a firearm with a cartridge in the chamber, magazine, clip or cylinder) in a vehicle within Tribal Lands.
- (y) Disorderly Conduct: Includes unlawfully fighting in a public place or challenging another person in a public place to fight; maliciously and willfully disturbing another person by loud and unreasonable noise; using offensive words in a public place which are inherently likely to provoke an immediate violent reaction; or assembling with at least one other youth for the purpose of disturbing the public peace, or committing any unlawful act, and failing to disperse on being requested or commanded to do so by a public officer.

## **SECTION 3.25.17            ENFORCEMENT**

- 1) Civil Citation - A Tribal Law Enforcement Officer has the authority to issue a civil citation to any Person, at any time within thirty (30) days from the date a violation of this Ordinance occurred, if:
  - (a) The infraction occurs in the presence of a Tribal Law Enforcement Officer; or
  - (b) When the Tribal Law Enforcement Officer has reasonable cause to believe a Civil Infraction has been committed.
- 2) Identification
  - (a) A person who has committed, or is reasonably suspected of committing, a Civil Infraction and is stopped by a Tribal Law Enforcement Officer is required to identify himself or herself by providing the enforcement officer his or her name, address, and date of birth.

- (b) If requested by the enforcement officer, the person shall also produce a picture identification card, such as a driver's license, military I.D. or tribal card.
  - (c) If the person is unable or unwilling to identify himself or herself, or produce a picture identification card, the enforcement officer may detain the person for a reasonable period of time in order to identify the person and issue a Civil Infraction citation.
- 3) Final Determination Unless Contested - A civil citation represents the Tribe's official determination that a Civil Infraction in violation of this Ordinance has been committed. This determination is final unless the person contests the citation in a manner set forth in this Ordinance.
- 4) Notice Requirement
- (a) Notice of Correction - Notice of Correction shall be served upon any person found to be in violation of this Ordinance in writing that specifies the nature of the violation, the action(s) the person must take to correct the violation, the due date for compliance and the monetary penalty pursuant to the Schedule of Fines and enforcement consequences of non-compliance. The Notice or Correction shall be deemed personally served on any person upon the sworn statement of the citing officer with proof of copy produced by the Tribal Administration Enforcement Officer.
  - (b) Civil Citation - The contents of a civil citation shall include the following:
    - (i) A statement that the Civil Infraction is a non-criminal offense for which imprisonment is not an available sanction;
    - (ii) A statement listing the provision of the Ordinance violated and a statement briefly describing the conduct of the person which lead to the violation of this Ordinance;
    - (iii) A statement listing the monetary penalty imposed pursuant to the Schedule of Fines for the Civil Infraction described therein and that the person may be noticed by separate letter that the penalty amount has increased after a determination that the person has previous violations;
    - (iv) A statement on how a person may contest the citation;
    - (v) A statement that the person must respond to the citation within thirty (30) days from the date of service of the citation; and
    - (vi) A statement that 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 monetary penalty pursuant to the Schedule of Fines for the Civil Infraction described; therein plus any sanction imposed by the Bear River Tribal Court for person's failure to appear;
    - (vii) The infraction occurs in the presence of a Tribal Law Enforcement Officer;  
or
    - (viii) When the Tribal Law Enforcement Officer has reasonable cause to believe a Civil Infraction has been committed.

- 5) Second Notice - A second notice may be served on a person who has been served a civil citation informing him or her that the amount of the penalty reflected on the civil citation has been increased due to the fact that the person has been cited for one or more times in the past twelve months for the same infraction thereby enhancing the penalty for the recent infraction. 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.
- 6) Service of the Citation - The civil citation may be served on the person in the following manner:
  - (a) Personal service by a Tribal Law Enforcement Officer; or
  - (b) Mailing the civil citation by certified or registered mail, return receipt requested, addressed to the person at his or her mailing address if known, or such other address which is believed to give the person actual notice of the civil citation.
    - (i) Service shall be deemed effective on the date of the personal service by Tribal Law Enforcement Officer or on the date the certified mail is either delivered or delivery of the same is attempted. If the certified mail receipt is returned unsigned, then service shall be deemed effective on the date that is three (3) days following deposit in the mail.
    - (ii) Where service of any notice of civil citation is effected in compliance with this Ordinance, the alleged failure of any person to receive service of process and notice of civil citation shall not affect the validity of any proceedings taken under this Ordinance.
    - (iii) A copy of the civil citation and the proof of service shall be filed with the Bear River Tribal Court Clerk within seventy-two (72) hours of issuance, excluding weekends and holidays.
- 7) Seizure/Forfeiture of Property - A Tribal Law Enforcement Officer may, upon Probable Cause when issuing a citation for a civil infraction, seize any Property used in the commission of a violation of this Ordinance. All Property utilized in violation of this Ordinance is also subject to seizure and forfeiture by order of the Bear River Tribal Court. The Band must return any Property confiscated to its owner unless the Bear River Tribal Court determines that the possession of the Property is unlawful or could be deemed a risk to facilitate future violations of this Ordinance, in which case it will become the Property of the Band.

### **SECTION 3.25.18 HEARING PROCEDURES AND PENALTY**

- 1) Response Options - A person shall respond to the civil citation in one of the following ways to the Tribal Court Clerk:
  - (a) Pay the fine by submitting cash, cashier's check or money order in the amount of the civil fine to the Band within thirty (30) days from the date the civil citation is served; or

- (b) Request a hearing to contest the citation by completing the Request for Hearing portion of the civil citation form, in accordance with the instructions set forth on the citation form, and submitting the request to Bear River Tribal Court, within thirty (30) days from the date of issuance of the citation.
- 2) Failure to Respond - If a person who is served with a civil citation fails to pay the fine amount, fails to request a hearing or fails to appear at a hearing that he or she has requested, the Bear River Tribal Court shall enter a default judgment against the person, and may impose additional sanctions for failing to respond unless:
  - (a) The Tribal Court Clerk, with the consent of the Bear River Band Police Chief, dismisses the issue after 90 days; and
  - (b) The person fails to appear at a hearing and
- 3) Hearing (s)
  - (a) A hearing shall be scheduled within thirty (30) days from the Bear River Tribal Court's receipt of a Request for Hearing. The Bear River Tribal Court shall provide a written Notice of Hearing to the Petitioner requesting the hearing (herein "Petitioner") and Tribal Law Enforcement. The Notice of Hearing shall state the date, time and place of the hearing and shall be served at least fifteen (15) days prior to the date of the hearing. The Notice of Hearing to Law Enforcement shall include as an attachment a copy of the Petitioner's completed Request for Hearing form.
  - (b) If the Tribal Law Enforcement Officer submits an additional written report concerning the civil citation to the Bear River Tribal Court for consideration at the hearing, then a copy of this report also shall be served on the Petitioner at least five (5) days prior to the date of the hearing.
  - (c) The Petitioner or the Tribal Law Enforcement Officer may request one (1) continuance for any reason, provided that Bear River Tribal Court is given the request for a continuance at least forty-eight (48) hours in advance of the scheduled hearing and that the rescheduled hearing shall not be deferred more than forty five (45) days after the Petitioner's original hearing request was filed. A request for continuance made less than forty-eight (48) hours before the scheduled hearing may be granted in the discretion of the Bear River Tribal Court based upon a showing good cause.
  - (d) All hearings shall be closed to the public unless all parties in interest agree to a public hearing. At the hearing, the Petitioner shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the civil citation. The Petitioner may appear personally or through an attorney. Prehearing discovery is not authorized, but subpoenas of witnesses and documents shall be permitted as authorized by Tribal law or the Tribal Court's Rules of Court. The Bear River Tribal Court judge 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 civil citation and any additional report submitted by the Tribal Law Enforcement Officer or the Tribal Administration Enforcement Officer shall constitute presumptive evidence of the respective facts contained in those documents.
  - (f) The Bear River Tribal Court may continue the hearing and request additional information from the Tribal Law Enforcement Officer or the Tribal Administration Enforcement Officer or the Petitioner of the civil citation prior to issuing a written decision.
- 4) Bear River Tribal Court Decision - After considering all the testimony and evidence submitted at the hearing, the Bear River Tribal Court judge shall issue a written decision to uphold or dismiss the civil citation and the reasons for that decision, including written findings on each violation of this Ordinance. The decision of the Bear River Tribal Court judge pursuant to 14.12 of the Rules of Court.
- (a) If the Bear River Tribal Court judge determines the civil citation should be upheld, he or she may apply any of the following remedies:
    - (i) Issue an injunction, by ordering the Petitioner to temporarily or permanently refrain from conducting the acts or actions that gave rise to the civil citation.
    - (ii) Impose monetary penalty(ies) in an amount not to exceed the maximum provided in the Schedule of Fines in effect on the date the violation occurred. In determining the amount of the monetary penalty(ies), the judge may take into account any or all of the following factors:
      - 1. The duration of the violation;
      - 2. The frequency, recurrence, and number of violations, related or unrelated, by the same person;
      - 3. The seriousness of the violation;
      - 4. The economic impact of the violation on the community; and
      - 5. Such other factors as justice may require.
    - (iii) Suspend the monetary penalty(ies) on the condition that the Petitioner does not commit any other violations of this Ordinance and complies with all Bear River Tribal Court orders relating to the violation during a specified period not to exceed one (1) year.
    - (iv) Issue such other order as may be deemed fair and just by the Bear River Tribal Court.
  - (b) If the Bear River Tribal Court judge finds that a Request for Hearing plainly lacks merit, the judge may hold the Petitioner liable for, and order Petitioner to pay, reasonable fees and costs, including attorney's fees, incurred by the Tribe.
  - (c) If the Bear River Tribal Court judge determines the civil citation should be upheld, he or she shall order the payment of the monetary penalty pursuant to the Schedule of Fines as well as for payment of any reasonable administrative costs incurred to the Tribe arising from enforcement of the civil citation pursuant to this Ordinance. Late payment charges shall accrue and be payable in the amount and by the terms specified in the Schedule of Fines.

- (d) If the Tribal Court judge determines the civil citation should be dismissed, he or she shall order dismissal.
  - (e) The Petitioner and the Tribal Law Enforcement Officer shall be served with a copy of the Bear River Tribal Court order within seven (7) calendar days of its issuance.
  - (f) The decision of the Bear River Tribal Court shall be final and not subject to further review upon service on the Petitioner.
- 5) Collection - In any case where a person has been found by the Bear River Tribal Court to have committed a Civil Infraction and a monetary penalty pursuant to the Schedule of Fines has been assessed, the person has thirty (30) days to make payment. For good cause shown, the Bear River 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 monetary penalty of a minor.
- (a) If the person has not paid the monetary penalty within the time ordered by the Bear River Tribal Court, the Tribe can move the Bear River Tribal Court to take any and all actions necessary to collect the fine, including but not limited to the following:
  - (b) Refer the monetary penalty to a collection agency or other collection institution;
  - (c) Upon written request from the Tribe, issue an order to an employer on the Reservation to garnish up to twenty five (25%) percent of the Person's wages;
  - (d) Upon written request from the Tribe, issue an order directing the Tribe to garnish the Person's per capita distribution up to the amount of the fine;
  - (e) Upon written request from the Tribe, issue a garnishment order against an off Reservation employer or any other entity that compensates the Person in wages or money.
  - (f) Exclude the Person from the Bear River Reservation until such time the fine has been paid.

### **SECTION 3.25.19            EFFECTIVE DATE**

A policy may be effective upon adoption by the Council and certification by the Tribal Chairperson and Secretary.

### **SECTION 3.25.20            SOVEREIGN IMMUNITY**

Nothing in this Code shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe.

**Policy Dates:**

- Approved: September 4, 2018
- Amended: November 26, 2019
- Amended: April 8, 2020
- Amended: August 4, 2020



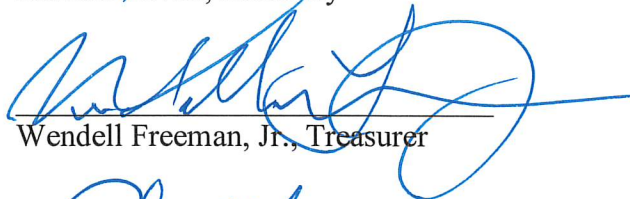
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This is to certify that the Bear River Band of the Rohnerville Rancheria Tribal Council duly assembled in Loleta, CA and adopted the foregoing amended Peace and Security Ordinance on August 4, 2020 by a vote of   1   For,   0   Against,   0   Abstaining, and   0   Absent.

  
Josefina Cortez, Chairperson

  
Edwin Smith, Vice Chairperson

  
Edward Bowie, Secretary

  
Wendell Freeman, Jr., Treasurer

  
John McGinnis, Member-at-Large

  
Niekoma Cantrell, Member-at-Large

  
Darrell Sherman, Member at Large