

# ROBINSON RANCHERIA OF POMO INDIANS OF CALIFORNIA

## PEACE AND SECURITY CODE

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## PREAMBLE

The peace and security of all tribal members, guests and visitors of the Robinson Rancheria of Pomo Indians of California (“Tribe” or “Robinson Rancheria”) Reservation (“Reservation”), shall be preserved and protected by the Tribe. It is the policy of the Tribe that all Persons on the Reservation are entitled to the peaceful and tranquil pursuit of their lifestyles and security against harassment, vandalism, disruption of the peace and other antisocial acts, both in public and in private. The Tribe finds and declares that Public Law 280 did not divest the Tribe of its inherent sovereign authority to establish its own laws and enforce them.

## CHAPTER 1 - JURISDICTION AND CONSTRUCTION

### *SECTION 1.1 JURISDICTION*

The Tribe’s judiciary (“Tribal Court”) shall have jurisdiction over all Violations arising under this Code. This Code 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 the Courts of the United States and the State of California.

### *SECTION 1.2 CONCURRENT JURISDICTION*

With respect to any of the Violations enumerated in this code, over which Federal, Tribal or State Courts may have lawful jurisdiction, the jurisdiction of the Tribal Court shall be concurrent and not exclusive.

### *SECTION 1.3 LIBERAL CONSTRUCTION*

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

1. Preserve and promote the peace, order, harmony, safety, health and general welfare of the Tribe’s citizens and those permitted to enter or reside on the Reservation;
2. Safeguard individual rights and community standards;
3. Secure rights and powers inherent in the Tribe’s sovereign status;
4. Exert jurisdiction over all matters essential to the Tribe’s self-determination and self-governance;

5. Treat all parties fairly and without prejudice by protecting individual rights guaranteed by the “Indian Civil Rights Act” and by the traditions, customs and laws of the Tribe; and
6. Resolve disputes fairly and efficiently.

#### *SECTION 1.4 SEVERABILITY*

If any clause, sentence, paragraph, or part of this entire Code or the application thereof to any Person or circumstance shall for any reason be adjudged by any Court of competent jurisdiction to be in Violation with the Tribe’s Constitution or invalid, such judgment shall not affect, impair, or invalidate the remainder of this entire Code, nor the application thereof to the other Persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof and to the Persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

#### *SECTION 1.5 DEFINITIONS*

1. “Accessories” means every Person who after a Violation has been committed, harbors, conceals, or aids a Principal, with the intent that said Principal may avoid or escape from detention, arrest, trial, conviction or punishment, having knowledge that said Principal has committed such Violation or has been charged with such Violation or convicted thereof, is an Accessory.
2. “Breach of the Peace” means 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
3. “Citation” means the written document issued by an Officer in accordance with the requirements of Section 2.3.
4. “Controlled Substance” is defined in Section 8.1.
5. “Officer” means a member of the Robinson Rancheria Police Department, designated by the Tribe to enforce this Code.
6. “Person” means an individual and Persons, means more than one individual.
7. “Principal” means any Person concerned in the commission of a Violation, whether they directly commit the act constituting the Violation, or aid and abet in its commission, or, not being present, have advised encouraged in its commission and all Persons counseling, advising, or encouraging children under the age of fourteen (14) are Principals of that Violation.

8. "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 Code only, Tribal Trust Land issued to tribal members (assignments); and any other Tribally controlled lands not held in trust for the Tribe.
9. "Probable Cause" means the existence of facts and circumstances within one's knowledge and of which one has reasonably trustworthy information sufficient to warrant a Person of reasonable caution to believe that a Violation has been committed.
10. "Property" includes every estate, interest, and right in lands, tenements and hereditaments.
11. "Personal Property" includes every description of money, goods, chattels, effects, evidence of right in action, and written instruments by which any pecuniary obligation, right, or title to Property, real or personal, is created or acknowledged, transferred, increased, defeated discharged or dismissed.
12. "Reservation" means the reservation lands, as established under the laws of the United States which were set aside for the Tribe, and set forth in the Tribe's Constitution, and shall encompass all territory within the boundaries as now or hereafter prescribed or ascertained including the Tribal Trust Land, fee patented lands, roads, water, bridges, lands and rights-of-way owned, used or claimed by any Person.
13. "Robinson Rancheria Citizens Business Council" (or "Citizens Business Council") is the governing body of the Tribe, which consists of six (6) Tribal Members elected at-large by the Tribal Council. It is composed of a chairperson, vice-chairperson, secretary-treasurer and three (3) members.
14. "Schedule of Penalties" means the list of monetary fines and penalties assessed for each Violation described herein.
15. "Tribal Council" means all adult voting members of the Tribe.
16. "Tribal Court" means the judiciary branch of the Tribe.
17. "Tribal Member" means an enrolled member of the Tribe.
18. "Tribal Property" means any Property or Personal Property owned by the Tribe including any Tribal enterprise, wholly owned by the Tribe.
19. "Tribal Trust Land" as used in this Code means all Property held by the United States government in trust for the benefit of the Tribe.

20. "Tribally Approved Function" means a social, governmental, or cultural event that has been approved by the Citizens Business Council or is being held by or sanctioned by the Citizens Business Council or any agency, department, or wholly owned enterprise of the Tribe.
21. "Tribe" means the Robinson Rancheria of Pomo Indians of California, which is also referred to herein as the "Robinson Rancheria."
21. "Violation" means any act committed or omitted in Violation of this Peace and Security Code.

## CHAPTER 2 - ENFORCEMENT

### *SECTION 2.1 AUTHORITY OF THE OFFICERS*

1. It shall be the duty of the Robinson Rancheria Tribal Police Department's officers ("Officers") to apply this Code and all implementing rules and regulations.
2. An Officer may detain for a Violation of this Code under the following circumstances:
  - a) In obedience to a warrant or order of the Tribal Court, or any other recognized Court;
  - b) When there is Probable Cause to believe the Person to be detained has committed a Violation in the Officers presence;
  - c) The Person to be detained committed a Violation, although not in the Officer's presence; or
  - d) The Officer has Probable Cause to believe that the Person to be detained has committed a Violation, whether or not a Violation in fact has been committed.
3. The detained Person can be released in the field after issuance of the Citation but in the following circumstances the Person must be turned over to the custody of the Lake County Sherriff's Office for booking:
  - a) If the Officer detains a Person who committed a Major Crime as defined in the Majors Violations Act; or
  - b) If the Officer detains a Person who committed an act that constitutes a crime under the laws of the State of California or the laws of the United States federal government, without regard for concerns of double jeopardy between Tribal and State of California jurisdiction.
4. Officers have authority to issue Citations for all Violations of this Code up to thirty (30) days from the date when the Violation occurred.

### *SECTION 2.2 SERVICE OF THE CITATION*

1. The Citation may be served on the Person in the following manner;
  - a) Personal service; or
  - b) 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



enforcement Officer.

2. 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 (3) days following deposit in the mail.
3. Where service of any notice required under this Code 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 Code.
4. A copy of a Citation and, if applicable, the proof of service shall be filed with the Tribal Court within seventy-two (72) hours of issuance, excluding weekends and holidays. If the Tribal Court within this time frame does not receive the Citation; the Tribal Court may dismiss the Citation without prejudice.

#### *SECTION 2.3 CITATION REQUIREMENTS*

The Citation is a document issued to a Person who committed a Violation of this Code, which shall include the following:

1. A statement that the Violation is a non-criminal Violation for which imprisonment is not an available sanction;
2. A statement listing the subsection of the Code that was violated along with a statement briefly describing the conduct of the Person which lead to the Violation;
3. A statement listing the monetary penalty imposed for the civil 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. A statement that non-monetary penalties may also be imposed for the Violation;
5. A statement on how the Person may contest the Violation;
6. A statement that the Person must respond to the Citation within thirty (30) days from the date of service of the Citation; and
7. 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 Citation plus a sanction imposed by the Court for the Person's failure to appear.

#### *SECTION 2.4 IDENTIFICATION*

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

#### *SECTION 2.5 SEIZURE / FORFEITURE OF PROPERTY*

A Officer may, upon Probable Cause when issuing a Citation for a Violation, seize any Property used in the commission of a Violation of this Code. All Property utilized in Violation of this Code is also subject to seizure and forfeiture by order of the Tribal Court. The Tribe must return any Property confiscated to its rightful owner unless the Tribal Court determines that the possession of the Property is unlawful or could be deemed a risk to facilitate further Violations of this Code, in which case it will become the Property of the Tribe.

#### *SECTION 2.6 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 been cited 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 2.7 FINAL DETERMINATION UNLESS CONTESTED*

A Citation represents an official determination by an Officer that a Violation has been committed. This determination is final unless the Person contests it in a manner set forth in this Code.

#### *SECTION 2.8 RESPONSE TO CITATION OPTIONS*

A Person shall respond to a Citation in one of the following ways:

1. Pay the fine by submitting cash, cashier check or money order in the amount of the fine to the Tribe within thirty (30) days from the date the Citation is served or if the Person is a Tribal employee or Tribal member, then by submitting an authorization to garnish the Person's pay or benefits; or
2. Request a hearing by completing that portion of the Citation form and submitting the

request to the Tribal Court, per the instructions on the Citation, within thirty (30) days from the issuance of the Citation.

#### *SECTION 2.9 FAILURE TO RESPOND*

If a Person who is served with a Citation fails to pay the fine amount, fails to request a hearing or fails to appear at a hearing that he or she has with the Tribal Court, then the Tribal Court shall enter a default judgment against the Person, and impose additional sanctions for failing to respond.

#### *SECTION 2.10 HEARING*

1. A Person requesting a hearing (“Petitioner”) shall have a hearing scheduled by the Tribal Court within thirty (30) days from the Tribal Court’s receipt of the Request for Hearing form.
2. The Tribal Court shall mail the written Notice of Hearing via certified mail to the address listed on the Request for Hearing form. The Notice of Hearing shall state the date, time and place of hearing and shall be served at least fifteen (15) days prior to the date of the hearing.
3. The Court shall provide the written Notice of Hearing to the Robinson Rancheria Tribal Police Department. The Notice of Hearing shall include as an attachment a copy of the Petitioner’s completed Request for Hearing form.
4. If the Robinson Rancheria Tribal Police Department submits an additional written report concerning the Citation to the Tribal Court for consideration at the hearing, then a copy of the report also shall be served via certified mail to the address listed on the Request for Hearing form on the Petitioner at least five (5) days prior to the date of the hearing.
5. The Petitioner or the Robinson Rancheria Tribal Police Department may request one (1) continuance for any reason, provided that Tribal Court is given the request for a continuance at least forty-eight (48) hours in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than forty-five (45) days after the hearing request was filed. A request for continuance made less than forty-eight (48) hours before the scheduled hearing may be granted by the Tribal Court Judge based upon a showing good cause.
6. All hearings shall be closed to the public unless the Officer and the Tribal Court agree that the hearing will be open. At the hearing, the Petitioner shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the Citation. The Petitioner may appear personally or through an attorney. Pre-hearing discovery is

not authorized, but subpoenaing of witnesses and documents shall be permitted as authorized by tribal law or the Tribal Court's Rules of Court. 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 with sufficient due process protections for the Petitioner.

7. The Citation and any additional report submitted by the Officer shall constitute presumptive evidence of the respective facts contained in those documents.
8. The Tribal Court may continue the hearing and request additional information from the Officer or the Petitioner prior to issuing a written decision.

#### *SECTION 2.11 TRIBAL COURT DECISION*

1. After considering all the testimony and evidence submitted at the hearing, the Tribal Court 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 shall be issued within twenty (20) calendar days following completion of the hearing.
2. If the Tribal Court determines the Citation should be upheld, he or she may apply any of the following remedies:
  - a) Issue an injunction, by ordering the Petitioner to temporarily or permanently refrain from conducting the acts or actions that gave rise to the Citation.
  - b) Impose penalties consistent with Chapter 9.
  - c) Suspend the penalty on the condition the Petitioner does not commit any other Violations of this Code and complies with all Tribal Court orders relating to the Violation during a specified period not to exceed one (1) year.
  - d) Issue such other order as may be deemed fair and just by the Tribal Court.
3. If the Tribal Court finds that the Request for Hearing was submitted by the Petitioner simply to cause delay, expense or was completely without merit, then the Tribal Court may hold the Petitioner liable for, and order Petitioner to pay, the Tribe's reasonable fees and costs, including attorney's fees.
4. If the Tribal Court determines the Citation should be upheld, it shall set forth in the decision the payment schedule for the penalty as well as for payment of any administrative costs assessed under Subparagraph 3 above.

5. If the Tribal Court determines the Citation should be dismissed, it shall issue a decision dismissing the Citation with a general description of the reasons for such dismissal.
6. The Robinson Rancheria Tribal Police Department shall be served with a copy of the decision within seven (7) calendar days of its issuance.
7. Within seven (7) calendar days of its issuance, the Tribal Court shall mail a copy of the decision to the Petitioner via certified mail at the address listed on the Request for Hearing form.
8. The decision of the Tribal Court Judge shall be final upon service on the Petitioner and not subject to further review.

## CHAPTER 3 – VIOLATIONS AGAINST THE GOVERNMENT

### *SECTION 3.1 DISRUPTING MEETINGS, PROCESSIONS AND CEREMONIES*

Any Person violates this Subsection if he or she acts, gestures, utters, obstructs or interferes with the intent to disrupt a Tribally Approved Function and in fact disturbs or obstructs the Tribally Approved Function.

### *SECTION 3.2 THREATENS OR INTIMIDATES A CITIZENS BUSINESS COUNCIL MEMBER, GAMING COMMISSIONER OR OTHER GOVERNMENT OFFICIAL.*

Any Person violates this Subsection who by force or threats of force threatens or intimidates any member of the Robinson Rancheria Citizens Business Council, a Gaming Commissioner or any other government official of the Robinson Rancheria.

### *SECTION 3.3 DISTURBING RELIGIOUS OR CEREMONIAL MEETINGS*

Any Person violates this Subsection who willfully disturbs any religious or ceremonial meeting by any act, gesture or utterance either within the place where such religious or ceremonial meeting is held and in fact disturbs the order and solemnity of such religious or ceremonial meeting.

### *SECTION 3.4 ENTERING CEREMONIAL BUILDINGS OR CEREMONIAL AREA OR TRIBALLY APPROVED FUNCTION UNDER THE INFLUENCE.*

Any Person violates this Subsection who enters any ceremonial building, ceremonial area, or attends a Tribally Approved Function under the influence of alcohol and / or Controlled Substances. A Person is under the influence of alcohol or Controlled Substances under this Subsection if alcohol or Controlled Substances can be smelled on the Person's breath and / or clothes or the Person is displaying erratic behavior caused by being under the influence of alcohol and / or Controlled Substances.

### *SECTION 3.5 ASSAULT AND BATTERY OF A CITIZENS BUSINESS COUNCIL MEMBER, GAMING COMMISSIONER OR OTHER GOVERNMENT OFFICIAL.*

Any Person violates this Subsection who uses any force or violence upon the Person of a Citizens Business Council Member, Gaming Commissioner, or other government official.

### *SECTION 3.6 RIOT*

Any two or more Person violates this Subsection where they meet to cause a physical quarrel and to actions to cause such physical quarrel.

### *SECTION 3.7 UNLAWFUL ASSEMBLY*

Two or more Persons who assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being commanded to do so by a Tribal Court Judge, Officer, Citizens Business Council member, or any other Law Enforcement shall be in Violation of this Subsection.

### *SECTION 3.8 UNLAWFUL CONSPIRACY*

If two or more conspire either to commit a crime against the Tribe or to defraud the Tribe or any of its subsidiaries or enterprises in any manner or for any purpose, and one or more of such Persons do any act to effect the object of such conspiracy, each Person shall be in Violation of this Subsection.

### *SECTION 3.9 ESCAPING OR AIDING A FUGITIVE*

1. Escape or aiding escape by any Person who, being in lawful custody for any Violation, who escapes or attempts to escape from lawful custody is in Violation of this Subsection.
2. Any Person who assists, or aids a Person to escape or attempt to escape is in Violation of this Subsection.
3. Any Person who purposely hides, conceals, or gives misinformation as to a fugitive's whereabouts when a warrant for arrest has been issued or Officers are in pursuit of such fugitive shall be deemed to be in Violation of this Subsection.

### *SECTION 3.10 RESISTING LAWFUL ARREST OR DETENTION*

No Person shall willfully and knowingly by force or violence or other means, resist, or assist another to resist a lawful arrest or detention.

### *SECTION 3.9 FAILURE TO AID AN OFFICER*

Any Person who shall neglect or refuse, when called upon to do so, to aid, or assist an Officer of the Tribe, or other Officer whatsoever, to assist in the arrest or detention of any Person being taken into lawful custody, or in securing such offender when apprehended or in conveying such offender to the nearest place of confinement shall be in Violation of this Subsection.

### *SECTION 3.10 FALSE ARREST*

Any Person who willfully and knowingly make or cause to be made the unlawful arrest

detention, or imprisonment of another Person is in Violation of this Subsection

*SECTION 3.11 FALSE REPORT OF VIOLATION OR INCIDENT*

Any Person who knowingly and willfully files a false report of a Violation or incident against another is in Violation of this Subsection.

*SECTION 3.12 PERJURY*

Any Person, in any affidavit or testimony, taken before any Person authorized to administer oaths, swear, affirms, declares, deposes, or certifies before any competent Tribunal, including the Tribal Court, an Officer, or Person in any case or matter, regarding any fact and in such affidavit, or testimony states any material which the Person knows to be false is in Violation of this Subsection.

*SECTION 3.13 FAILURE TO APPEAR BY COMPLAINT*

Any Person who files a complaint on another Person and fails to appear in Court without just cause is in Violation of this Subsection.

*SECTION 3.14 FAILURE TO OBEY LAWFUL ORDER OF COURT*

Any Person who fails to obey any lawful order of a Court, willfully disobeys any term, direction or written process or material is in Violation of this Subsection.

*SECTION 3.15 PURLOINING TRIBAL RECORDS*

Any Persons who steal, embezzle, alter, corrupt, withdraw, falsify, or void any record, process, charter, gift, grant, conveyance, bond or contract, issue, forfeited recognizance or other forfeiture, or shall forge, deface, or falsify any document or instrument recorded, or any registry, acknowledgement, or certificate, or who alter, deface, or falsify any minute, document, book, or proceeding whatever, of or belonging to any Tribal office located within this Reservation shall be deemed guilty of this Subsection.

*SECTION 3.16 THREATENING OR INTIMIDATING A VICTIM, WITNESS OR INFORMANT*

Any Person who willfully threatens to use force or violence upon a victim or witness, or Person who provided information of a Violation or destroys the Property or who conveys by communication a credible threat to use force or violence upon the victim or witness, or Person who provided information of a Violation or family member of either party is in Violation of this Subsection.



## CHAPTER 4 – VIOLATIONS AGAINST PERSONS

### *SECTION 4.1 DEFINITIONS*

1. “Assault” is an attempt coupled with the present ability to use willful and unlawful force or violence upon the Person of another.
2. “Battery” is the willful and unlawful use of force or violence upon the Person of another.
3. “Bodily Injury” means both physical and mental injuries including a cut, abrasion, bruise, burn, physical pain, causing illness, impairment of a function of a bodily organ or mental health and /or cognitive ability and or any injury to the body, no matter how temporary.
4. “Brandishment of weapon” means to display a weapon in an angry or threatening manner.
5. “Dangerous Weapon” means any weapon, devise, 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, rock, stick clubs, brass knuckles, and / or knife).
6. “Domestic relations” means spouse, former spouse, cohabitant, former cohabitant or the mother or father of his or her child, whether biological, adopted, by custody, by foster, or otherwise.
7. “Firearm” means any device 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.

### *SECTION 4.2 ASSAULT*

Any Person who, with the present to use force or violence, attempts to batter another is in Violation of this Subsection.

### *SECTION 4.2 BATTERY*

Any Person who willfully and unlawfully uses force or violence upon another is in Violation of this Subsection.

### *SECTION 4.3 DOMESTIC VIOLENCE*

Any Person defined in Subsection 4.0, Subpart (7), who uses force or violence against another Person as defined in Subsection 4.0, Subpart (7), causing Bodily Injury is in Violation of this Subsection.

*SECTION 4.4 BRANDISHMENT OF A WEAPON*

Anyone who except in self defense, displays any Dangerous Weapon in an angry or threatening manner and who has the present ability to use that weapon upon the Person of another is in Violation of this Subsection.

## CHAPTER 5 - CRIMES AGAINST CHILDREN

### *SECTION 5.1 FAILURE TO PROVIDE TO CHILD*

Any parent, guardian, or temporary custodian, of a minor child who willfully omits, to furnish necessary, clothing, food, shelter or medical attendance or remedial care is in Violation of this Subsection.

### *SECTION 5.2 WILLFUL HARM OR INJURY TO A CHILD, ENDANGERING CHILD OR HEALTH*

Any Person who, under circumstances or conditions likely to produce Bodily Injury, willfully causes or permits any child to suffer, or inflicts unjustifiable physical pain or mental suffering, or willfully causes or permits a child's health to suffer or willfully causes the child to be placed in a situation where his or her health or physical or mental wellbeing may be endangered is in Violation of this Subsection.

### *SECTION 5.3 CORPORAL PUNISHMENT ON A CHILD*

Any Person who willfully inflicts upon a child any cruel or inhuman corporal punishment or Bodily Injury is in Violation of this Subsection.

### *SECTION 5.4 CONTRIBUTING TO THE DELINQUENCY OF A MINOR*

Any Person who commits any act, or omit the performance of any duty, which act or omission causes or tends to cause, encourage, allow, entice, persuade, induce or permit the delinquency of any minor under the age of 18 is in Violation of this Subsection.

### *SECTION 5.5 LEWD ACTS WITH A CHILD*

Any Person who willfully and lewdly commits any lewd or lascivious act upon or with the body, or any part or member thereof, of a child who is under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the Person or the child in in Violation of this Subsection.

### *SECTION 5.6 MINORS; ALCOHOL AND CONTROLLED SUBSTANCES*

1. No Person under the age of twenty-one (21) years is permitted to consume, acquire or possess, including cannabis or medicine for which they do not have a written and current prescription.
2. No Person shall permit any other Person under the age of twenty-one (21) years to consume alcohol or Controlled Substances including cannabis or medicine for which they do not have a written and current prescription on his or her premises or any premises under his

or her control.

3. Any Person who has been found to have provided any Person under the age of twenty-one (21) years any alcoholic beverage or Controlled Substance including cannabis or prescription medicine shall be in Violation of this Subsection as well as any agreement under the Housing Department.

#### *SECTION 5.7 CURFEW VIOLATIONS*

Any child under the age of eighteen (18) years shall observe the following Curfew while on the Reservation:

1. During school terms, all children under the age of sixteen (16) years shall be off the streets and at or in their home before 9:00 PM, unless accompanied by their parent or guardians.
2. All children sixteen (16) through seventeen (17) years shall be off the streets and at or in their home by 10:00 PM, unless accompanied by their parent or guardian.
3. When a school sanctioned function or Tribally Approved Function is held which does not close or end prior to the above stated curfew limits, both age groups will be allowed to remain until one-half hour (30 minutes) after the official close, or end of such function. The Officer has the right to confirm the end time of such school sanctioned function or Tribally Approved Function and to confirm the Child's attendance at such school sanctioned function or Tribally Approved Function.
4. During vacation periods, Children under the age of sixteen (16) years will be allowed to remain out until 11:00 PM and children who are sixteen (16) and seventeen (17) years will be allowed out until 12:00 AM.
5. Any parent or guardian who knowingly allows or fails to have a child observe and obey the above curfew schedules shall be found in Violation of this Subsection and any agreement made under the Housing Department.

#### *SECTION 5.8 FAILURE TO SEND CHILDREN TO SCHOOL - TRUANCY*

1. Any Person who shall without good cause neglect or refuse to send his or her children or any children under his or her care who are of appropriate age to school, shall be deemed in Violation of this Subsection.
2. Anyone who has not attained the age of sixteen (16) years and who has not graduated from the twelfth (12) grade is required to attend school.

3. Anyone who has a mental or physical disability may not be subject to Subpart (2), but in all such mental or physical disabilities a written verification of the fact of the disability must be obtained from a licensed medical doctor, psychiatrist, or recognized hospital or institute and recorded in the school or district where he lives.
4. Any Person who violates any provisions of Subsection shall be guilty of a Violation and the Child of the Person shall be subject to return to school and placement in a boarding school at the discretion of the Court.

## CHAPTER 6 - CRIMES AGAINST PROPERTY

### *SECTION 6.1 DEFINITIONS*

For this Section, the following definitions will apply:

1. “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.
2. “Deface” means damage to monuments, buildings or other structures by changing the physical appearance.
3. “Damage” means loss, injury, or deterioration to Property causing it to decrease in strength, value, amount or quality.
4. “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.
5. “Financial loss” means a loss of money or of something by which money or of value may be acquired.

### *SECTION 6.2 MALICIOUS MISCHIEF*

1. A Person commits Malicious Mischief if he or she, without the effective consent of the owner:
  - a) Damages or destroys the Property of the owner;
  - b) Tamper with Property of the owner and causes financial loss or substantial inconvenience to the owner or a third Person;
  - c) Makes markings, including, inscriptions, slogans, drawings, or painting on the Property of the owner;
  - d) Alters, defaces or damages the Tribe’s Property, which may include a monument, structure or facility, place of worship or burial ground or any other Property of the Tribe; or
  - e) Aids, assists, commands, or counsels another to commit Malicious Mischief.

### *SECTION 6.3. TRESPASS*

1. A Person commits the Violation of Trespass if he or she:
  - a) Enters or remains on Tribal or Private Property and;
  - 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 Reservation.
2. Notice may be given by:
  - a) Written or verbal communication given to the trespasser by a Citizens Business Committee member, Officer, the owner of the Property or a Person authorized to act on behalf of the owner of the Property or the Tribe;
  - b) Written notice posted on or about the Property in a manner reasonably likely to come to the attention of potential trespassers; or
  - c) Fences, barricades or other devices obviously designed to enclose the Property and to exclude all potential intruders; or
  - d) By written exclusion order.
3. A Violation under this Subsection if committed in a private dwelling, Tribal dwelling or where the trespasser carries a dangerous weapon or firearm on or about his Person during the commission of the Violation shall be subject to a tripling of the maximum fine as provided for under the Schedule of Penalties.

### *SECTION 6.4 RECKLESS DAMAGE OR DESTRUCTION*

1. A Person commits the Violation of Reckless Damage or Destruction if, without the consent of the owner, he or she recklessly damages or destroys Property of the owner.
2. “Recklessly” means a Person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him/her.

### *SECTION 6.5 ARSON*

A Person commits the Violation 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 any trailer, motor vehicle, camper, dwelling, structure, barn, stable, crops or open area located within the boundaries of the

Reservation, unless such burning has been expressly authorized by the Citizens Business Council in writing.

*SECTION 6.6 LITTER OF ROADS AND OTHER PUBLIC GROUNDS.*

Anyone who shall place any garbage, refuse, ashes, junk, glass, bottles, tin cans, or any other form of litter or debris on or near any public road, or upon any other public grounds or in or around any public waters of the Reservation is in Violation of this Subsection.

*SECTION 6.7 MAINTAINING A PUBLIC NUISANCE*

Anyone who shall act in such a manner, or shall permit his or her Property to become dangerous or hazardous or impair the safety, health, or comfort of the public by the discarding of refuse or rubbish, shall be deemed guilty of a Violation and will be required to remove such nuisance when so ordered by the Court.

*SECTION 6.8 BURGLARY*

Anyone who shall willfully in any manner enter any dwelling, vehicle, watercraft, aircraft, or other structure, movable or immovable, locked or unlocked either by night or by day without the consent of the owner or occupant and who takes any item of value shall be in Violation of this Subsection.

*SECTION 6.9 THEFT*

Any Person who takes the Property of another without his permission or consent, with the intent to deprive the owner of his or her Property is in Violation of this Subsection.

*SECTION 6.10 RECEIVING OR CONCEALING STOLEN PROPERTY*

Anyone who shall receive or conceal any Property of another Person, knowing the same to have been stolen, or who attempts to conceal any Property knowing the same to have been stolen is in Violation of this Subsection.

*SECTION 6.11 DUMPING TRASH ON TRIBAL PROPERTY*

Anyone who dumps or leaves trash or garbage on any Tribal Property or anywhere within the Reservation is in Violation of this Subsection; provided, that nothing herein shall be construed as affecting authorized collections and dumping of such trash or garbage.

*SECTION 6.12 INJURING FENCES*

Any Person who willfully cuts, breaks, stretches, pry opens, destroys, or otherwise injures the



fence of another, or who willfully digs or excavates under such fence, or opens a closed gate and leaves such gate open is in Violation of this Subsection.

*SECTION 6.13 UNAUTHORIZED USE AND INJURY OF PROPERTY*

Any Person who without proper authority uses, injures, or misuses any public, Tribal, or Private Property is in Violation of this Subsection.

*SECTION 6.14 EMBEZZLEMENT AND SELF DEALING*

Any Person who causes the Property of the Tribe to be taken including the public funds of the Tribe by any means is in Violation of this Subsection.

## CHAPTER 7 - CRIMES AGAINST THE PEACE

### *SECTION 7.1 DISORDERLY CONDUCT*

A Person commits the Violation of Disorderly Conduct if he or she:

1. Fights, or challenges to fight, any other Person within the boundaries of the Reservation;
2. 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;
3. Uses abusive, indecent, profane, or vulgar language in Tribal Property, and the language by its very utterance tends to incite a Breach of the Peace,
4. Engages in lewd behavior and is reckless about whether another Person is present who will be alarmed by his or her act;
5. Urinating or defecating in a public area on the Reservation. This section shall not apply to a Person who cannot comply with this Subsection as a result of a disability, age, or a medical condition;
6. Who is found in a public place, under the influence of alcohol and / or Controlled Substances, in a condition that he is unable to exercise care for his safety or the safety of others, or who is found in such a state of intoxication that they interfere with or obstructs or prevents the free use of any street, sidewalk, or other public way;
7. Anyone who loiters, wanders or prowls upon Private Property of another, at any time, without visible or lawful business with the owner or occupant, including Tribal Property; and
8. Anyone who loiters, wanders, or prowls upon the Private Property of another, at any time and peeks in the door, window of any inhabited building or structure, without visible lawful business with the owner or occupant of the Property, including Tribal Property.

### *SECTION 7.2 DISCHARGING FIREARMS, AIR GUNS OR OTHER SIMILAR WEAPONS*

Anyone who shall willfully discharge any type of firearms, air rifle, sling shot, hunting bow or archery bow or other similar weapons within the Reservation is in Violation of this Subsection, and the weapon so carried shall be confiscated unless released upon good cause shown to the Trial Court.

## CHAPTER 8 - CRIMES AGAINST COMMUNITY WELFARE

### *SECTION 8.1 POSSESSION OF A CONTROLLED SUBSTANCE*

1. Any Person who is found in possession of any Controlled Substance is in Violation of this Subsection.
2. The term “Controlled Substance” means drug or other substance, or immediate precursor, included in schedules I, II, III, IV, or V listed in 21 U.S.C. § 812, and also including future amendments to schedules I through V as may be enacted by Congress, or is listed in current or future schedules issued pursuant to authority vested in the Attorney General of the United States pursuant to 21 U.S.C. §811.
3. The term “Controlled Substance” does not include distilled spirits, wine, malt beverages or tobacco or cannabis where the possession of the cannabis is lawful under the laws of the State of California.

### *SECTION 8.2 POSSESSION OR DISTRIBUTION OF ALCOHOL AND CONTROLLED SUBSTANCES IN, ON OR NEAR SCHOOLS, PLAY GROUNDS OR YOUTH CENTERS*

1. Anyone who distributes or possesses with intent to distribute alcohol or Controlled Substances in, on, or within one thousand (1000) feet of the Property compromising a Tribal, community, public or private elementary school, vocational school, secondary school, community college, Playground, or Youth Center violates this Subsection.
2. Each act of distribution shall constitute a separate Violation.
3. The term “alcohol” shall have its commonly understood meaning, without limiting the commonly understood meaning, “alcohol” shall include but not be limited to distilled spirits, wine, beer and malt beverages containing alcohol.
5. “Playground” means any outdoor facility, including any parking lot and accompanied Property thereto, intended for recreation by children.
6. “Youth Center” means any recreational facility and/or gymnasium, including any parking lot appurtenant thereto, intended primarily for use by Persons under the age of twenty-one (21) years, which regularly provides athletic, civic or cultural activities.

### *SECTION 8.3 UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE WITHOUT A PRESCRIPTION*

1. No Person shall use or be under the influence of any Controlled Substance, except

when administered by or under the direction of a Person licensed by the State of California to dispense, prescribe or administer Controlled Substances.

2. It shall be the burden of the cited Person to show that he or she comes within the exception in subpart (1) above.

*SECTION 8.4 POSSESSION OF CONTROLLED SUBSTANCE PARAPHERNALIA, INSTRUMENTS FOR INJECTING OR SMOKING*

It is unlawful to possess an opium pipe, or any device, contrivance, instrument, or paraphernalia used to unlawfully injecting or smoking a Controlled Substance.

*SECTION 8.5 DISTRIBUTION OF ALCOHOL OR CONTROLLED SUBSTANCES BY PERSONS UNDER THE AGE OF TWENTY-ONE (21) YEARS*

1. Anyone who is at least eighteen (18) years of age who distributes alcohol or a Controlled Substance to a Person under the age of twenty-one (21) violates this Subsection.
2. Each act of distribution shall constitute a separate Violation.

*SECTION 8.6 HALLUCINOGENIC CONTROLLED SUBSTANCES*

Any Person who possesses, sells, trades, transports, gives away, or manufactures any of the Controlled Substances known as hallucinogen, psychotomimetics dysleptic, or psychedelics, including lysergic acid diethylamide (LSD), mescaline, psilocybin, dimethyltryptamine (DMT), and methylmethoxy memylphenylethylamine (STP), shall be in Violation of this Subsection.

*SECTION 8.7 INTOXICATION BY INHALING*

Any Person who intentionally inhales, for the purpose of becoming intoxicated, any gasoline, lighter fluid, glue, spray paint, paint thinner, or any similar product shall be in Violation of this Subsection.

*SECTION 8.8 MISREPRESENTATION OF AGE BY PURCHASER*

1. Any Person who willfully lends his or her identification card to any Person under the age of twenty-one (21) years to attempt to purchase or purchase intoxicating liquor is in Violation of this Subsection.
2. Any Person under the age of twenty-one (21) years who unlawfully misrepresents his or her age for the purpose of purchasing or attempting to purchase intoxicating liquor is in Violation of this Subsection.

*SECTION 8.9 CARRYING A CONCEALED WEAPON WITHIN A VEHICLE OR ON PERSON.*

A Person is in Violation of this Subsection if she or he is carrying a concealed firearm when he or she does any of the following:

1. Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the Person.
2. Carries concealed upon his or her Person any pistol, revolver, or other firearm capable of being concealed upon the Person.
3. Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the Person.

*SECTION 8.10 CARRYING A LOADED FIREARM*

A Person is guilty of carrying a loaded firearm when he or she carries a loaded firearm on his or her Person or in a vehicle while in any public place within the Reservation.

*SECTION 8.11 CRUELTY TO ANIMALS*

Anyone who shall torture or cruelly mistreat any animal by torturing, tormenting, depriving of necessary sustenance, cruelly beating, mutilating, cruelly killing, or overdriving any animal, unnecessarily failing to provide any animal with proper food or drink, or cruelly driving or working any animal when such animal is unfit for labor shall be in Violation of this Subsection.

*SECTION 8.12 PROFITEERING*

1. Any Person violates this Subsection who seeks to or commits any of the followings acts or attempted acts for financial gain or advantage:
  - a) Pornography or exploitation of any child under 18;
  - b) Embezzlement;
  - c) Forgery;
  - d) Kidnapping;
  - e) Pimping and pandering;
  - f) Trafficking in Controlled Substances;

- g) Offenses related to fraud or theft from the Tribe;
  - h) Human trafficking;
  - i) A crime in which the perpetrator induces, encourages, or persuades a person under 18 years of age to engage in a commercial sex act. For purposes of this paragraph, a commercial sex act means any sexual conduct on account of which anything of value is given or received by any person;
  - j) A crime in which the perpetrator, through force, fear, coercion, deceit, violence, duress, menace, or threat of unlawful injury to the victim or to another person, causes a person under 18 years of age to engage in a commercial sex act. For purposes of this paragraph, a commercial sex act means any sexual conduct on account of which anything of value is given or received by any Person;
  - k) Abduction or procurement by fraudulent inducement for prostitution;
  - l) Theft of personal identifying information;
  - m) Conspiracy with another Person or Persons to commit any of the Violations listed above.
2. The Tribal Court may look to the State of California's Penal Code for definitions of the terms in this Subsection which are not found elsewhere in this Code.

## CHAPTER 9 – PENALTIES AND COLLECTION

### *SECTION 9.01 GENERAL PENALTY PROVISIONS*

1. A person committing a Violation under this Code will be subject to a fine in an amount not to exceed the maximum provided in the Schedule of Penalties in effect on the date the Violation occurred;
2. 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, temporary or permanent exclusion or traditional sanctions;
3. The Tribal Court has the authority to forfeit property, suspend or cancel a license or permit, or cite Persons for contempt.

### *SECTION 9.02 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:

1. The Person has not committed any previous Violations of this Code; and
2. The Person does not commit any other Violations of this Code during the time the penalty is deferred or suspended; and
3. The Person does not commit any infractions, Violations or Violations in any other jurisdictions during the time the penalty is deferred or suspended; and
4. The Person complies with all Tribal Court orders concerning the Violation to the best of his or her ability.

### *SECTION 9.03 COMMUNITY SERVICE*

1. The Tribal Court, at its discretion, may order community service in addition to or in place of a money penalty. The Tribal Court will determine if the person is a suitable candidate for community service.
2. A person approved for community service by the Tribal Court shall be referred to the Citizens Business Council for an community service assignment.
3. The Tribal Court, or designee, will keep a log of both services requested and performed

will provide a form for verification of the hours of service.

4. Community Service is limited to service
  - a) at Tribal Property; or
  - b) for a Tribal Agency; or
  - c) at the primary residence of a Tribal elder.
5. The Person completing Community Service will obtain written verification supporting the hours of service on the provided form and submit the form to the Tribal Court.

#### *SECTION 9.04 REFERRAL FOR TREATMENT*

1. 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.
2. 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.
3. 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.
4. A referral to a residential treatment program is an option if requested by the Person who violated this Code and if recommended by a mental health provider, an alcohol/substance abuse program, or social services program.

#### *SECTION 9.05 ENFORCEMENT OF CIVIL FINES*

1. 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.
2. 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.
3. 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:

- a) Refer the civil fine to a collection agency or other collection institution;
- b) Order an on-Reservation employer to garnish up to twenty five (25%) percent of violator's wages;
- c) Order the Tribal Administrator, or other appropriate tribal official, garnish up to one-hundred (100%) percent of the violators tribal per capita distribution, elder assistance payment, or General Assistance funds, travel stipends, or revenue sharing distribution; or
- d) 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
- e) Exclude the person from the Reservation generally, or specific areas within the Reservation until such time the fine has been paid.

#### *SECTION 9.06 PENALTIES*

Any Person who has been determined to have committed a Violation under this Peace and Security Code shall be subject to the following sanctions per Violation as determined by the Tribal Court, which shall have the discretion to make such determinations:

1. Community Service; and / or
2. A fine up to \$5000; and / or
3. Property forfeiture; and / or
4. Restitution; and /or
5. Exclusion from the Reservation either temporarily or permanently.

#### *SECTION 9.07 TRIBAL COURT DISCRETION*

In determining the amount of the penalty, 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 violator;

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.
1. Late payment charges shall accrue and be payable in the amount and by the terms specified in the schedule of civil penalties.