

# BLUE LAKE RANCHERIA

## HEALTH AND SANITATION ORDINANCE

03-2000

The Business Council of the Blue Lake Rancheria, empowered by the Tribal Constitution to enact ordinances, hereby ordains the following:

### §1. Findings and Declarations

The Tribe finds and declares that —

- (a) Public health and sanitation is intimately tied to the health and welfare of tribal members, residents and the environment of the Rancheria and other territory over which the Tribe has jurisdiction, as well as the economic stability, cultural integrity, and governmental structure of the Tribe.
- (b) The protection of public health and sanitation is one of the most important functions of a government.

Therefore, the Business Council adopts this Ordinance to protect and promote the political integrity, economic security, health, safety and welfare of the Tribe, its members, and all persons living on, or passing through, the Blue Lake Rancheria and to protect and preserve the environment, lands, culture, religion, and natural resources of the Blue Lake Rancheria.

### §2. Definitions

For the purposes of this ordinance, the following words shall have the following meanings:

- (a) The term "Business Council" means the Business Council of the Blue Lake Rancheria.
- (b) The term "cesspool" means a covered pit with open jointed lining into which sewage or waste is discharged, the liquid portion of which is disposed of by leaching into the surrounding solids and the solids or sludge being retained in the pit.
- (c) The term "drinking water" means water used for drinking and/or other residential purposes, including, but not limited to, recreation and gardening.
- (d) The term "drinking water source" means any public or private source of water used for drinking water and/or other residential purposes, including, but not limited to, recreation and gardening.
- (e) The term "on-site sewage disposal system", also known as a septic system, means a private facility for disposing of sewage located on the same property where the sewage waste is generate, or on private property located nearby.

- (f) The term "person" means any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, federal, tribal, state, county, city, or district government, or other political subdivision thereof, or any other group or combination acting as a unit whether incorporated or not, including a person acting in fiduciary or representative capacity.
- (g) The term "Rancheria" means all land, air, and water located within the exterior boundaries of the Blue Lake Rancheria.
- (h) The term "State" means the State of California or any administrative agency thereof.
- (i) The term "Tribal EPA" means the Tribal Environmental Protection Agency of the Blue Lake Rancheria.
- (j) The term "Tribe" means the Blue Lake Rancheria, a federally recognized tribe.
- (k) The term "violation" means any violation of this Ordinance.

### **§3. Jurisdiction**

- (a) The applicability of this Ordinance shall extend to all persons who commit a violation of this Ordinance on or within the Rancheria or other territory over which the Tribe has jurisdiction.
- (b) Any person who enters onto the Rancheria or other territory over which the Tribe has jurisdiction shall become subject to this Ordinance and shall be deemed to have consented to the jurisdiction of the Tribe and to be bound by the lawful enactments of the Tribe.

### **§4. Dead Animals**

- (a) Owners of dead animals shall dispose of the carcasses by burial or burning on their property, or by any legal disposal in a waste facility designed to accept such material off the Rancheria or other territory over which the Tribe has jurisdiction, within twenty-four (24) hours of the death of the animal.
- (b) When the owner of the dead animal refuses to comply with this section, such disposal shall be made by the Tribal EPA or other person authorized by the Business Council.
  - (1) The cost of such disposal shall be borne by and assessed against the owner of the carcass.
- (c) Animals or animal parts that have been properly preserved by tanning, taxidermy, or other similar technique are exempt from this section.

### **§5. Drinking Water**

- (a) The Tribe hereby adopts the State's drinking water quality standards and design criteria set out in the California Safe Drinking Water Act (Cal. Health and Safety Code section 116270,

et. seq.) and implementing regulations, as they may be amended from time to time, as the drinking water quality standards and design criteria governing public drinking water systems and small drinking water systems, as defined therein, located on or within the Rancheria or other territory over which the Tribe has jurisdiction.

(1) Any public drinking water system or small drinking water system located on or within the Rancheria or other territory over which the Tribe has jurisdiction shall be controlled by the drinking water quality standards and design criteria set out in the California Safe Drinking Water Act (Cal. Health and Safety Code section 116270, et. seq.) and implementing regulations, as they may be amended from time to time.

(b) It shall be unlawful for any person to pollute any drinking water source by disposing of garbage, dead animals or other polluting materials or items in or near the drinking water source.

(c) It shall be unlawful for any person to pollute any drinking water source by locating a privy, septic system, or other private sewage disposal system within fifty (50) feet of said drinking water source.

#### **§6. Disposal of Sewage Waste**

(a) All sewage waste generated on or within the Rancheria or other territory over which the Tribe has jurisdiction shall be disposed of in a safe and sanitary manner which does not imperil or endanger human health or the environment of the Rancheria or other territory over which the Tribe has jurisdiction.

(b) The Tribe hereby adopts the design criteria and technical guidelines for on-site sewage disposal systems used to control such systems in Humboldt County, including the Sewage Disposal Ordinance adopted by Humboldt County, the Sewage Disposal Regulations adopted by Humboldt County, and the Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices adopted by the California Regional Water Quality Control Board, as they may be amended from time to time, as the minimum design criteria and technical guidelines governing on-site sewage disposal systems located on or within the Rancheria or other territory over which the Tribe has jurisdiction. The Tribal EPA is authorized to supplement these design criteria and technical guidelines with any other measures it deems necessary to protect human health and the environment of the Rancheria or other territory over which the Tribe has jurisdiction.

(1) Any on-site sewage disposal systems located on or within the Rancheria or other territory over which the Tribe has jurisdiction shall be in compliance with these design criteria and technical guidelines plus any other measures added by the Tribal EPA.

(c) The use of cesspools for on-site sewage disposal is prohibited.

## **§7. Food Service Establishments**

- (a) The Tribe hereby adopts the current version of the Food and Drug Administration's Food Code, as it may be amended from time to time, as the standards and procedures governing the health, safety and sanitation of food handling, preparation and service at any temporary or permanent food service establishment located on or within the Rancheria or other territory over which the Tribe has jurisdiction.
- (b) Any temporary or permanent food service establishment located on or within the Rancheria or other territory over which the Tribe has jurisdiction shall be controlled by the standards and procedures set out in the current version of the Food and Drug Administration's Food Code, as it may be amended from time to time.

## **§8. Prohibited Activities**

No person shall violate any provision of this Ordinance, any standard adopted herein, or any rule, regulation, or standard adopted pursuant to this Ordinance.

## **§9. Civil Damages and/or Injunctive Actions**

In the event that any person, as a result of his or her actions that constitute a violation, should proximately cause any physical damage to any other person(s) residing within, or to any real or personal property situated in, the Rancheria or other territory over which the Tribe has jurisdiction, the Tribal EPA or other person authorized by the Tribe, or the person(s) adversely affected shall have the right to seek monetary and/or injunctive relief, including the imposition of penalties as set out in section 10, in any judicial forum of competent jurisdiction.

## **§10. Civil Penalties**

Any person violating any provision of this Ordinance is subject to a civil fine not to exceed 1,000.00 dollars per violation, depending on the gravity of the violation and any effects on human health or the environment resulting from the violation.

## **§11. No Other Remedies Affected**

Nothing in this Ordinance shall in any way limit an individual's right to pursue, in any judicial forum of competent jurisdiction, a private action for damages resulting from actions that would be considered violations of this Ordinance.

## **§12. Environmental Protection Fund**

- (a) All monies collected or received by the Tribe as a result of violations of this Ordinance shall be deposited with the Tribe to be credited to the Environmental Protection Fund.

(b) The Environmental Protection Fund shall be used for expenses related to protecting human health and the environment within the Rancheria and other territory over which the Tribe has jurisdiction, enforcing the provisions of the various environmental ordinances adopted by the Tribe, promoting environmental projects, and furthering environmental education for tribal members and residents of the Rancheria and other territory over which the Tribe has jurisdiction.

**§13. Effect of Ordinance on Other Tribal Ordinances**

This Ordinance supercedes any conflicting or contrary superceding ordinances passed by the Tribe.

**§14. Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

**§15. Sovereign Immunity**

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the Business Council, the Tribal EPA, or other staff of the Tribe acting pursuant to this Ordinance.

**§16. Amendments**

This Ordinance may be amended at any time by the Business Council.

**§17. Effective Date**

This ordinance shall take effect immediately upon passage.

**CERTIFICATION**

As the Chairperson of the Business Council for the Blue Lake Rancheria, I hereby certify that the Business Council adopted this Ordinance at a duly called meeting at which a quorum was present by a vote of 5 for, with 0 against, with 0 abstaining, with 0 absent, on this 2nd day of January, 2000.

  
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Claudia Brundin, Chairperson

  
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Date

  
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Melanie Shelanskey, Tribal Secretary

  
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Date