



ORDINANCE 11-04

AN ORDINANCE OF THE BUSINESS COUNCIL OF THE BLUE LAKE RANCHERIA ESTABLISHING ADMINISTRATIVE OFFSET FOR REPAYMENT OF DEBTS OWED TO THE TRIBE BY TRIBAL EMPLOYEES.

The Business Council of the Blue Lake Rancheria hereby ordains as follows:

Section 1. Findings and Declarations. The Business Council (“Council”) for the Blue Lake Rancheria (“Tribe”) finds and declares that:

1. The Tribe is a federally recognized Indian Tribe organized under the provisions of the Indian Reorganization Act, 25 U.S. C. § 476, under a written constitution which establishes the Blue Lake Business Council as the governing body of the Tribe.
2. Pursuant to Article V, Sections 6 (m) of the Tribe’s Constitution, the Business Council is vested with the authority to enact ordinances governing the conduct of individuals doing business on the Blue Lake Rancheria.
3. Employees of the Tribe, including the Blue Lake Casino and other tribal enterprises of the Tribe, occasionally incur debts to the Tribe, for which the Tribe lacks a practical means of collection in the event of non-payment, embezzlement or other fraud.
4. It is in the best interests of the Tribe to adopt a means of collecting debts owed to the Tribe when those debts are owed by Tribal employees.
5. The Council wishes to offset amounts owed by tribal employees to the Tribe against wages that would otherwise be paid to the employee by the Tribe and to retain those wages as complete or partial payment of any debt due the Tribe by the employee.
6. The Council intends to provide notice to a debtor employee of the Tribe’s intent to offset amounts owed against the employee’s wages and desires that the Treasurer of the Business Council, or designee thereof, provide to any employee who owes money to the Tribe an accounting of the amount otherwise due in salary to that employee, the amount of the debt, and the amount of any recoupment or offset for each pay period until such debt is repaid in full. It is the intent of the Council that the Treasurer, or designee, shall provide the employee such accounting for each pay period until the debt is repaid in full.
7. The Council also intends to grant jurisdiction to the Tribal Court of the Blue Lake Rancheria to review any decision by the Tribe to recoup an employee’s wages as provided for in this Ordinance.

8. The adoption of this Ordinance is necessary in order to protect the income and assets of the Tribe and therefore is in the best interests of the Tribe and its members.

Section 2. Adoption of New Chapter 2 of Title 1, Article 8 of the Blue Lake Rancheria Tribal Code Entitled “Administrative Offset for Repayment of Debts Owed the Tribe by Tribal Employees.” A new Chapter 2 entitled “Administrative Recoupment for Repayment of Debts Owed the Tribe by Tribal Employees” is hereby added to Title 1, Article 8 of the Blue Lake Rancheria Tribal Code and shall provide as follows:

TITLE 1 – GOVERNMENT

ARTICLE 8 - TRIBAL PERSONNEL

CHAPTER 2

ADMINISTRATIVE OFFSET FOR REPAYMENT OF DEBTS OWED THE TRIBE BY TRIBAL EMPLOYEES

Sections:

Section 1.08.02.010 Definitions

Section 1.08.02.020 Establishing Amount Owed

Section 1.08.02.030 Grant of Jurisdiction to the Tribal Court

Section 1.08.02.010 Definitions

As used in this Ordinance, the following terms shall have the following meanings:

- A. “Council” shall mean the Business Council of the Tribe.
- B. “Employee, Tribal Employee or Debtor” shall mean a person who is an employee or independent contractor of the Tribe that owes money to the Tribe.
- B. “Recoup or Recoupment” shall mean satisfying all or a portion of a debt owed by a tribal employee to the Tribe, by the Tribe withholding from the employee’s wages or salary, the amount of money owed or payable to the Tribe.
- C. “Treasurer” shall mean the Treasurer of the Council.
- D. “Tribal Court” shall mean the Tribal Court of the Blue Lake Rancheria.
- E. “Tribe” shall mean the Blue Lake Rancheria, and any corporation or business enterprise or entity of the Tribe.

Section 1.08.02.020 Establishing Amount Owed.

A. The head of a department or tribal business entity to which a tribal employee owes a debt shall prepare an accurate accounting of the debt, showing the amounts due, the dates such amounts were due, and any interest accrued.

B. The department head shall provide the Treasurer, or other official designated by the Treasurer, with the accounting prepared pursuant to subsection A of this Section.

C. The Treasurer, or other official designated by the Treasurer, shall prepare a letter to the indebted employee, informing him or her that his or her salary will be withheld to the extent required to recoup amounts owed to the Tribe. Such letter shall include an accurate accounting of the debt, showing the amounts due, the dates such amounts were due, and any interest accrued. In addition, such letter shall inform the employee that he or she may contest the debt in the Tribal Court of the Blue Lake Rancheria.

D. The Treasurer, or other official designated by the Treasurer, shall send to the employee's last known address the letter: (1) informing him or her that his or her salary will be withheld to the extent required to recoup amounts owed by the employee to the Tribe, (2) an accurate accounting of the debt, showing the amounts due, the dates such amounts were due, and any interest accrued, and (3) information necessary to inform the employee of his or her to seek review of the recoupment in the Tribal Court of the Blue Lake Rancheria.

Section 1.08.02.030 Grant of Jurisdiction to the Tribal Court.

A. The Council hereby grants jurisdiction to the Tribal Court to hear causes of action brought by debtor employees seeking review of any recoupment undertaken by the Tribe pursuant to Section 1.08.02.020 above, provided that such action be brought by the debtor within sixty (60) days of receipt of the letter issued to the debtor employee pursuant to Section 1.08.02.020 (D). Any cause of action filed by the debtor in the Tribal Court, pursuant to this Section shall not be subject to the claims procedure set forth in the Tribe's Claims Ordinance.

B. The Council expressly waives its sovereign immunity from suit to allow the Tribal Court to grant declaratory and injunctive relief and money damages to resolve the cause of action provided for in Section 1.08.02.030 (A) above, provided that any money damages awarded by the Tribal Court against the Tribe shall not exceed the amount of the recoupment at issue in the case.

Section 3. Severability. In the event that any section or provision of this Ordinance is held or determined to be invalid by any court of competent jurisdiction, it is the intent of the Council that the remaining sections or provisions of this Ordinance, and any amendments of this Ordinance, shall continue in full force and effect.

Section 4. Amendments. This Ordinance may be amended at any time by the Council, when such amendment is necessary to promote the general health, safety, and welfare of the Tribe or its members.

Section 5. Repeal of Prior Ordinances. All prior Ordinances previously enacted by the Council, which are inconsistent with the provisions of this Ordinance are hereby repealed. If the provisions of this Ordinance conflict with the provisions of any other Ordinance, the provisions of this Ordinance shall control.

Section 6. Effective Date. This Ordinance shall take effect immediately after its adoption by the Council.

CERTIFICATION

The foregoing Ordinance was adopted at a regular meeting of the Blue Lake Rancheria Business Council, with a quorum present, held on December 6th, 2011, by the following vote:

AYES: 5
NOES: 0
ABSENT: 0
ABSTAIN: 0

Claudia Brundin
Claudia Brundin, Chairperson

December 6, 2011
Date

ATTEST:

Bonnie Mobbs
Bonnie Mobbs, Executive Secretary

12-6-2011
Date