

BLUE LAKE RANCHERIA

P.O. Box 428
Blue Lake, CA 95525



Law and Order Ordinance

16-01

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Ordinance 16-01 Law and Order Nov 7 2016

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The Tribal Business Council of the Blue Lake Rancheria does hereby ordain as follows:

Findings and Declaration

The Blue Lake Rancheria Business Council (“Tribe”) finds and declares:

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

Adoption of new Law and Order Ordinance

A new Ordinance entitled “Law and Order Ordinance” is hereby adopted and shall provide as follows:

CHAPTER 1. CONSTRUCTION, AND JURISDICTION

Section 1.01 Liberal Construction

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

This Ordinance is also intended to safeguard individual rights and community standards, and to ensure that all parties are treated fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act and by the traditions, customs and laws of the Tribe. This Ordinance will provide an orderly procedure for resolving conflicts which reflects tribal customs and traditions as well as the prevailing community standards, and which affords all affected persons a fair, prompt, and impartial hearing. Finally, this Ordinance is intended to exert jurisdiction over all matters essential to the Tribe’s self-determination and self-governance.

Section 1.02 Jurisdiction

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

CHAPTER 2. DEFINITIONS

- (A) "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.
- (B) "Bodily injury" means: cut, abrasion, bruise, burn, physical pain; or causing illness, impairment of a function of a bodily member, organ, or mental facility; or any other injury to the body, no matter how temporary.
- (C) "Controlled substance" means any drug or other substance, under the provisions of Chapter 13, Title 21, Section 802, "Controlled Substance" of the United States Code.
- (D) "Damage" means loss, injury, or deterioration to property causing it to decrease in strength, value, amount or quality.
- (E) "Dangerous drug" means any drug that is included in Chapter 13, Title 21, Section 802, "Dangerous Drug" schedules I, II, III, IV, or V of the United States Code. This term includes a device or a drug that bears or is required to bear the legend:
 - i. Caution: Federal law prohibits dispensing without a prescription; or
 - ii. Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.'
- (F) "Dangerous Weapon" means any firearm, or other weapon, device, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is known to be capable of producing death or serious bodily injury.
- (G) "Destroy" means to ruin the structure, organic existence or condition of a thing or property, to demolish to injure or mutilate beyond possibility to use.
- (H) "Deface" means damage to monuments, buildings or other structures by changing the physical appearance.
- (I) "Drug Paraphernalia" means any equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or dangerous or narcotic drug.
- (J) "Elder" means a person over the age of 55.
- (K) "Exclude" means to ban or forbid a person from being present on the Blue Lake Rancheria Reservation.
- (L) "Firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion. Firearm does not mean a BB device.
- (M) "Tribal Council" is the five members Tribal Business Council established under the Tribe's Constitution. The Tribal Business Council is the Tribe's governing body.
- (N) "Financial Loss" means a loss of money or decrease in financial value.
- (O) "Marijuana" means all parts of the plant *Cannabis sativa* L. whether growing or not, under the provision of Chapter 13, Title 21, Section 802, "Marijuana" of the United States Code.
- (P) "Motor Vehicle" or "Vehicle" includes automobiles, motorcycles, ATVs, trucks, and all other forms of motorized transportation.
- (Q) "Narcotic drug" means any drug under the provision of Chapter 13, Title 21, Section 802, "Narcotic Drug" of the United States Code.

- (R) "Owner" means a person holding title to real or personal property. In the case of real property, Owner shall include a lessee or assignee of property under an assignment or valid lease from the Tribe or Owner. In cases of uncertainty, "Owner" shall mean the Tribe.
- (S) "Private Property" means any property owned in fee, individual land where title is held in the name of the United States in trust for the individual (allotments), and for purposes of this Ordinance only Tribal Property leased from the Tribe and Tribal Property issued to tribal members pursuant the Tribe's Assignment Ordinance (assignments).
- (T) "Property" means:
 - i. Real property such as land or structures and building affixed to land and includes both tribal and private;
 - ii. Personal property which is anything tangible or that can be severed from real property.
- (U) "Reservation" means all lands within exterior boundaries of the Blue Lake Rancheria, all lands owned by the United States in trust for the Tribe lying outside the exterior boundaries of the Rancheria, and all lands claimed by the Tribe to which the Tribe may establish title.
- (V) "Recklessly" means a person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him or her.
- (W) "Serious Bodily Injury" means: Bodily Injury, which involves: a substantial risk of death; extreme physical pain or disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- (X) "Tribe" means the Blue Lake Rancheria Tribe, a federally recognized Indian tribe.
- (Y) "Tribal Council" means the five members Blue Lake Tribal Business Council established under the Tribe's Constitution. The Tribal Business Council is the Tribe's governing body.
- (Z) "Tribal Court" means the judiciary branch of the Tribe as set forth and provided for under the Tribe's Tribal Court Ordinance, Ordinance No. 07-01.
- (AA) "Tribal Police Officer" means a person designated by the Tribe to enforce this Ordinance and to act as a law enforcement officer for the Tribe.
- (BB) "Tribal Property" as used in this Ordinance means all property held by the United States government in trust for the Tribe and all land owned by the Tribe and all land owned by the Tribe in fee, Tribal structures, buildings, facilities, dwellings and all personal property of the Tribe.
- (CC) "Violation" means a violation of tribal law as set forth in this Ordinance.

CHAPTER 3. OFFENSES AGAINST PEOPLE AND ANIMALS

Section 3.01 Assault or Aggravated Assault

- (A) A person commits Assault if he or she:
 - (1) Knowingly or purposely causes bodily harm to another;
 - (2) Negligently causes bodily harm to another with a weapon;
 - (3) Knowingly or purposely makes physical contact of an insulting or provoking nature with an individual;
 - (4) Knowingly or purposely cause reasonable apprehension of bodily harm in another; or
 - (5) Aids, assists, commands, or counsels another to commit Assault.
- (B) A person commits Aggravated Assault if he or she knowingly or purposely causes:
 - (1) Serious bodily harm to another;
 - (2) Bodily harm to another with a weapon;
 - (3) Reasonable apprehension of serious bodily harm in another by use of a weapon;

- (4) Bodily harm to tribal officials, tribal employees or law enforcement officers lawfully discharging an official duty; or
- (5) Aids, assists, commands, or counsels another to commit Aggravated Assault.

Section 3.02 Violations Against Minors

(C) Contributing to the Delinquency of a Minor:

- (1) A person commits Contributing to the Delinquency of a Minor when he or she purchases or gives:
 - a. Alcohol to any person under the age of 21; or
 - b. Cigarettes, marijuana, Dangerous Drug or Narcotic Drug for or to any person under the age of 18.

Section 3.03 Cruelty to Animals and Animal at Large

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

- (1) Physically mistreats an animal either by abuse or failure to furnish minimum care, including but not limited to failure to seek appropriate medical care. Physical mistreatment of an animal shall include but is not limited to killing (except for permitted hunting), maiming, mutilating, beating, torturing, wounding, tormenting an animal or depriving an animal of necessary sustenance, drink, food or shelter.

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

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

CHAPTER 4. VIOLATIONS AGAINST PROPERTY

Section 4.01 Damage or Destruction

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

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

Section 4.02 Trespass

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

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

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

- (1) Written or verbal communication given to the intruder by a Tribal Official, Tribal Police Officer, the owner of the property or a person authorized to act on behalf of the owner;
- (2) Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or

- (3) Fences, barricades or other devices obviously designed to enclose the property and to exclude all potential intruders; or
- (4) Written notice of exclusion issued by the Tribal Court, Exclusion Hearing Panel or Tribal Council pursuant to other applicable Tribal law; or
- (5) Written Tribal, State or federal protective order(s) or restraining order(s) preventing a person from entering the Reservation or buildings within the Reservation.

Section 4.03 Arson

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

Section 4.04 Theft

- (A) A person commits Theft when he or she knowingly:
- (1) Takes Property of another without permission or consent and with the intent to convert it to the taker's use (including potential sale); or
 - (2) Receives, conceals or aids in the reception or concealment of Property obtained by illegal means.

CHAPTER 5. VIOLATIONS AGAINST THE PEACE

Section 5.01 Disorderly Conduct

- (A) A person commits Disorderly Conduct if he or she;
- (1) Fights with another person within the boundaries of the Reservation; or
 - (2) Creates a nuisance by any excessive noise, or other behavior, or allows or permits the creation of a nuisance on property owned, leased, occupied or otherwise controlled by such person, except for sanctioned cultural events; or
 - (3) Not being lawfully authorized to do so, displays a Dangerous Weapon in a manner calculated to place another person in fear or apprehension of being harmed; or,
 - (4) Abuses or threatens a person with bodily harm or constitutes a course of conduct that is designed to harass the individual; or,
 - (5) Drinks an alcoholic beverage on any tribal street, alley or sidewalk, or on any other Tribal Property (unless otherwise authorized by the Tribe), or upon Private Property that he or she has no right to occupy; or,
 - (6) Engages in lewd behavior and is reckless about whether another person is present who will be alarmed by his or her act; or
 - (7) Uses abusive, indecent, profane, or vulgar language in a tribal building or on Tribal Property, and the language by its very utterance tends to incite a breach of the peace; or
 - (8) Engages in a course of conduct that poses a danger to themselves or others.

Section 5.02 Carrying a Prohibited Weapon

- (A) A person commits carrying a Prohibited Weapon if he or she carries on or about his or her person a dangerous weapon. For this subsection only a dangerous weapon shall not include a firearm that is registered with the State or the Tribe and authorized by the Tribe's administrator for concealed carry (CCW) purposes. This subsection shall not apply to Tribal Police Officers or any other state, federal or tribal law enforcement officer.
- (B) Any Tribal Police Officer or other tribally designated security or law enforcement officer may, upon probable cause, confiscates a dangerous weapon from any person who violates this subsection.

Section 5.03 Reckless Discharge of a Firearm

- (A) A person commits Reckless Discharge of a Firearm when he or she:
- (1) Recklessly discharge a firearm within 100 yards of a residential or business area;

- (2) Willfully discharges a firearm at a dwelling, occupied building or occupied motor vehicle; or
- (3) Discharges any firearm from or at roads or highways located within the Reservation.
- (4) Section 5.03(A)(2) and (3) do not apply to Tribal Police Officers acting within the scope of authority granted in Ordinance No.11-02.

Section 5.04 Loitering and Curfew

(A) A person commits Loitering if:

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

(B) A person commits violation of Curfew if:

- (1) He or she is a minor (under the age of 18 years old) who remains on Tribal Property between the hours of 10:00 p.m. and 6:00 a.m., unless attending a tribally sanctioned event with the written permission of the child's parent or legal guardian;
- (2) He or she is a parent, guardian or custodian of a minor and knowingly permits or by insufficient control allows the minor to remain on Tribal Property between 10:00 p.m. and 6:00 a.m., unless the minor is attending a tribally sanctioned event; or
- (3) He or she is a parent of a minor and knowingly fails to respond within two hours of notification by Tribal Police Officer, law enforcement official, or Tribal Official to take custody of a minor taken into protective care for violation of this subsection.

Section 5.05 Violations Against the Tribal Government

(A) Interfering with Lawful Detention or Resisting Detention

- (1) A person commits Interfering with Lawful Detention or Resisting Detention if by force, violence or other means, he or she:
 - a. Interferes, obstructs or resists any tribal official, Tribal Police Officer or other law enforcement officer in the performance of their official duties;
 - b. Flees from any Tribal Police Officer or other law enforcement officer who is attempting to lawfully restrain him or her; or
 - c. Assists another to avoid a lawful detention or harbors a fugitive. As used herein, the term "fugitive" shall mean a person who escaped lawful detention from any federal, state, or tribal jail, or any person for whom a federal, state, or tribal court has issued a warrant for his/her arrest.

CHAPTER 6. DRUG AND ALCOHOL VIOLATIONS

Section 6.01 Chemical Intoxication

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

- (1) Inhales, ingests, applies, uses, or possesses a substance containing a volatile chemical, abusable glue or aerosol paint with the intent to inhale, ingest, apply or use the substance in a manner:
 - a. Contrary to directions for use, cautions, or warnings appearing on a label of a container of the substance; and designed to: affect the person's central nervous system; create or induce a condition of intoxication, hallucination, or elation; or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.
 - b. Sells, offers for sale, delivers or gives to any person under the age of 18 years any volatile chemical, abusable glue or aerosol paint.

Section 6.02 Illegal Drugs

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

Section 6.03 Intoxication on Tribal Property

- (1) A person commits Intoxication on Tribal Property if he or she appears intoxicated on Tribal Property to the degree that the person may endanger himself, herself or another.
- (2) It is an exception under this subsection if the substance was administered for therapeutic purposes and as part of the person's professional medical treatment by a licensed physician.

Section 6.04 Intoxication While Operating a Motorized Vehicle

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

- (1) When his or her driving is impaired; and
- (2) Under the influence of any alcohol, Controlled Substance, Narcotic or Dangerous Drug, or
- (3) Any person who refuses to comply with an authorized breath or blood test when requested to do so by a Tribal police officer shall be subject to an additional fine in addition to any other orders of the Tribal Court.

Section 6.05 Minor in Possession

A person commits a violation of Minor in Possession if he or she is under the age of 21 years and possesses, purchases, consumes, obtains or sells any alcoholic beverage.

CHAPTER 7. VIOLATIONS AGAINST HEALTH, SAFETY AND THE ENVIRONMENT

Section 7.01 Dumping

A person commits Dumping when he or she dumps refuse, solid waste material or unwanted items anywhere other than in an approved location or authorized landfill.

Section 7.02 Open Burning of Solid Waste

A person commits Open Burning of Solid Waste when he or she fails to obtain an open burning permit from either the Blue Lake Tribal Police Department or the Blue Lake Tribal Environmental Protection Department.

Section 7.03 Unpermitted Tree Cutting

A person commits Unpermitted Tree Cutting when he or she fails to obtain a tree cutting permit from either the Blue Lake Rancheria Police Department or the Blue Lake Tribal Environmental Protection Department.

Section 7.04 Smoking in Non-Smoking Zone

A person commits Smoking in a Non-Smoking Zone when he or she smokes in any Non-Smoking Zone as defined by Ordinance, Regulation, or Policy.

CHAPTER 8. TRAFFIC VIOLATIONS

Section 8.01 Unlawful Operation of Motor Vehicle

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

- (1) On any street or road within the Reservation in willful disregard for the safety of persons or property; or
- (2) In excess of any posted speed limit on any road on the Reservation; or
- (3) In Disregard of any posted road or traffic sign on any road on the Reservation; or
- (4) Without wearing a seatbelt; or

- (5) Without a valid state driver's license or vehicle registration; or
 - (6) Without proof of insurance; or
 - (7) With a child who is not restrained in a child safety seat; or
 - (8) Without factory installed, operational lighting or equipment.
- (B) A person commits Unlawful Operation of a Motor Vehicle when:
- (1) He or she operates a motorcycle or ATV without a helmet or spark arrester; or
 - (2) He or she refuses to provide his or her driver's license or proof of insurance at the request of a Tribal Police Officer.

Section 8.02 Unlawful Parking or Unlawful Storage of an Abandoned Motor Vehicle

- (A) A person commits Unlawful Parking when he or she parks, stops or leaves standing any motor vehicle within:
- (1) Areas designated solely for the passage or parking of emergency vehicles;
 - (2) A no-parking area as designated by a red or yellow painted curb or "no parking" sign;
 - (3) Areas designated solely for Tribal Elder parking when he or she is not a Tribal Elder;
 - (4) 20 feet of a fire hydrant;
 - (5) A parking area designated for physically disabled person without a valid State of California or Tribal "physically disabled" parking permit;
 - (6) Areas designated solely for Tribal Council parking when he or she is not a Tribal Council member; or
 - (7) Areas designated solely for casino employee of the month parking when he or she is not the casino employee of the month; or
 - (8) Areas designated solely for automobile parking when he or she is the driver of a housecar, recreational vehicle, truck and trailer, or tractor-trailer rig;
 - (9) Areas designated for recreational vehicle parking when the vehicle remains beyond the date and time allowed by Tribal Ordinance, Regulation, or Policy.
- (B) A person commits Unlawful Storage of Abandoned Vehicle when he or she stores a nonoperational vehicle on Tribal Property or Private Property on the Reservation.

Section 8.03 Authority to Tow and Store Motor Vehicles

- (A) A Tribal Police Officer may remove a vehicle that is located on Tribal Property by having it towed and stored at the owner's expense under the following conditions:
- (1) If the vehicle is unlawfully parked under the conditions described in Section 8.02; or
 - (2) If the vehicle is obstructing the normal movement of traffic; or
 - (3) If the vehicle is in a condition as to create a hazard to other traffic; or
 - (4) If the vehicle is abandoned under the conditions described in Section 8.02(B); or
 - (5) When the driver or person in control of the vehicle is arrested and removed from Tribal Property by a law enforcement officer.

CHAPTER 9. ENFORCEMENT

Section 9.01 Tribal Police Duties

It shall be the duty of every Tribal Police Officer to enforce this Ordinance as specified in Ordinance No. 11-02, Establishing the Blue Lake Tribal Police Department and Qualification, Training and performance Standards for Police Officers.

Section 9.02 Tribal Police Authority

In fulfilling his or her duties and responsibilities under this Ordinance, Tribal Police Officers are vested with the authority contained in the Blue Lake Rancheria Ordinance No. 11-02, Establishing Blue Lake Tribal Police Department and Qualification, Training and Performance Standards for Police Officers.

Section 9.03 Citations

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

Section 9.04 Identification

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

Section 9.05 Notice Requirement

(A) The citation shall include the following statements:

- (1) The violation is an offense for which imprisonment is not an available sanction;
- (2) The subsection of the Ordinance that was violated along with a statement briefly describing the conduct of the person which lead to the violation;
- (3) The monetary penalty imposed for the violation and that the person may be noticed by separate letter that the penalty amount has increased after determination that the person has previous violations;
- (4) Information about how the person may contest the citation;
- (5) The person must respond to the citation within thirty (30) days from the date of personal service of the citation or sixty (60) days from the date of service by mail; and
- (6) Failure to respond to the citation or failure to appear at a requested hearing will result in a default judgment against the person in the amount of the citation plus a sanction imposed by the Court for the person's failure to appear.

Section 9.06 Second Notice

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

Section 9.07 Service of the Citation

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

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

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

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

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

CHAPTER 10. HEARING PROCEDURES

Section 10.01 Response Options

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

Section 10.02 Default Judgment and Burden of Proof

(A) Failure to Respond and Default Judgment

- (1) The Tribal Court shall enter a default judgment and impose additional sanctions against a person who is served with a citation; and
 - a. Fails to pay the fine amount or request a hearing within the time periods set forth in Section 10.01 above; or
 - b. Fails to appear at a hearing that he or she has requested.

(B) Burden of Proof

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

Section 10.03 Hearing

- (A) Upon receipt of a request for hearing the Tribal Court shall schedule a hearing within 90 days from the date the hearing request is filed and provide written notice of hearing to the person requesting the hearing (“Defendant”) and the Tribal Police Department. The Notice of Hearing shall state the date, time and place of hearing and shall be issued at least 30 days prior to the date of the hearing. The Notice of Hearing to the Tribal Police Department shall include as an attachment a copy of the Defendant’s completed request for hearing form.
- (B) If the Tribal Police Office submits an additional written report concerning the citation to the Tribal Court for consideration at the hearing, then the Police Department, at least 15 days prior to the hearing, shall make a copy of this report available for inspection and copying upon request by the person who was issued the citation.
- (C) The Defendant or the Tribe may request one (1) continuance for any reason,, provided that Tribal Court is given the request for a continuance at least five (5) business days in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than 60 days after the hearing request was filed. A request for continuance made less than five (5) business days before the scheduled hearing may be granted by the Tribal Court Judge based upon exigency circumstances only.
- (D) All hearings shall be open to the public unless the Tribal Court finds good cause for the hearing to be closed. At the hearing, both the Tribe and the Defendant shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the citation. The Tribe and Defendant may appear personally or through an attorney. Pre-hearing discovery shall not be allowed, except any evidence in the possession of the Tribal Police Department shall be provided to the defendant at least ten (10) days prior to the hearing upon written request. Consistent with the Court’s Rules governing Pleading, Practice, Procedure and Rules of Evidence, the Tribal Court is authorized to conduct the hearing informally, in any manner which will provide a fair hearing.

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

Section 10.04 Tribal Court Decision

- (A) After considering all the testimony and evidence submitted at the hearing, the Tribal Court Judge shall issue a written decision to uphold or dismiss the citation and the reasons for that decision, including written findings on each violation. The decision of the Tribal Court Judge shall be issued within thirty (30) days following completion of the hearing.
- (B) If the Tribal Court Judge determines the citation should be upheld, he or she may apply any of the following remedies:
 - (1) Issue an injunction, by ordering the Defendant to temporarily or permanently refrain from conducting the acts or actions that gave rise to the citation.
 - (2) Impose fines in an amount not to exceed the maximum provided in the Judgment Schedule adopted by the Tribal Council in effect on the date the violation occurred. In determining the amount of the fine, the Judge may take into account any or all of the following factors:
 - a. The duration of the violation;
 - b. The frequency, recurrence, and number of violations, related or unrelated, by the same violator;
 - c. The seriousness of the violation, including the injuries to any third parties caused by the defendant;
 - d. The economic impact of the violation on the community; and
 - e. Such other factors as justice may require.
 - (3) Suspend the fine on the condition the Defendant does not commit any other violations of this Ordinance and complies with all Tribal Court orders relating to the violation during a specified period not to exceed one (1) year.
 - (4) Order restitution to be paid to those affected by the violation.
 - (5) Order community service in addition to or in lieu of a fine.
 - (6) Such community service shall, if possible, be related to the offense.
 - (7) Issue such other order as may be deemed fair and just by the Tribal Court including a public or private apology.
- (C) If the Tribal Court Judge finds that a request for a hearing was completely without merit, he or she may hold the Defendant liable for, and order the Defendant to pay, the Tribe's reasonable fees and costs, including the investigative costs by Tribal police officers involved in the case, and including attorney's fees.
- (D) If the Tribal Court Judge determines the citation should be upheld, he or she shall set forth in the decision the payment schedule for the fine as well as for payment of any administrative costs assessed under Subparagraph C above. Late payment charges shall accrue and be payable in the amount and by the terms specified in the Judgment Schedule.
- (E) If the Tribal Court Judge determines the citation should be dismissed, he or she shall issue a decision dismissing the citation.
- (F) The Defendant and the Tribe shall be served with a copy of the decision within seven (7) calendar days of its issuance.
- (G) The decision of the Tribal Court Judges shall be final upon service on the Defendant and not subject to further review.

CHAPTER 11. PENALTIES

Section 11.01 General Penalty Provisions

- (A) A person committing a violation under this Ordinance will be subject to a fine in an amount not to exceed the maximum provided in the judgment schedule adopted by the Tribal Council in effect on the date the violation occurred;
- (B) In addition to, or in lieu of, the fine, the Tribal Court may grant such other relief as is necessary and proper, including, but not limited to the following community service, restitution, treatment and/or counseling, banishment, debarment or traditional sanctions;
- (C) The Tribal Court has the authority to forfeit property, suspend or cancel a license or permit, or cite for contempt.

Section 11.02 Fines Deferred

- (A) 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 violation of this Ordinance; and
 - (2) The person does not commit any other violations of this Ordinance during the time the penalty is deferred or suspended; and
 - (3) The person does not commit any infractions, violations or offenses in any other jurisdiction 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 11.03 Community Service

The Tribal Court, at its discretion, may order community service in addition to or in place of a money fine. The Tribal Court will determine if the person is a suitable candidate for community service.

- (A) A person approved for community service by the Tribal Court shall be referred to as a Community Service Worker.
- (B) The Clerk of the Tribal Court, or a person designated by the Court Clerk, will;
 - (1) Keep a log of both services requested and performed;
 - (2) Provide a form for verification of the Community Service Worker's hours of service.
- (C) Community Service is limited to service
 - (1) At Tribal property; or
 - (2) For a Tribal Agency; or
 - (3) At the primary residence of a tribal elder.
- (D) Tribal Agencies or elders who want the assistance of a Community Service Worker must submit a written request to the Tribal Court and assistance will be provided in the order that requests area received.
- (E) The Community Service Worker will obtain written verification supporting the hours of service on the provided form and submit the form to the Tribal Court.

Section 11.04 Referral for Treatment

- (A) In place of, or in addition to, a fine, the Tribal Court may refer a Defendant to mental health providers including an alcohol/substance abuse program, and/or social services program for counseling and/or treatment.
- (B) After completion of an evaluation, the agency conducting the evaluation shall report its findings and recommendations to the Tribal Court or an officer assigned by the Tribal Court.
- (C) The Tribal Court may order mental health providers to submit progress reports of treatment. An officer assigned by the Tribal Court will monitor the person's progress in his or her treatment program.
- (D) Residential treatment is an option if requested by the person who violated this Ordinance and it recommended by a mental health provider, an alcohol/substance abuse program, or social services program.

Section 11.05 Enforcement of Civil Fines

- (A) In any case where a person has been found to have committed a violation and a civil penalty has been assessed, the person has thirty (30) days to pay the civil fine. For good cause shown, the Tribal Court may extend the time for payment or approve an installment plan. Parent(s), guardians, or any adult responsible for the care of minor (a person under the age of 18) are liable for the civil fine of a minor.
- (B) If the person has not paid the civil fine within the time allotted by the Tribal Court, the Court may take any and all actions necessary to collect the civil fine, including but not limited to the following:
 - (1) Refer the civil fine to a collection agency or other collection institution;
 - (2) Order an on-Reservation employer to garnish up to twenty five (25%) percent of violator's wages;
 - (3) Order the Tribal Administrator, or other appropriate tribal official, garnish up to one-hundred (100%) percent of the violators tribal per capita distribution, elder assistance payment, or revenue sharing distribution; or
 - (4) Upon written request from the Tribe, issue a garnishment order against an off-Reservation employer or any other entity that issues the violator wages or money; or
 - (5) Exclude the person from the Reservation generally, or specific areas within the Reservation until such time the fine has been paid.

CHAPTER 12. GENERAL PROVISIONS

Section 12.01 Sovereign Immunity

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

Section 12.02 Severability


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

Section 12.03 Prior Inconsistent Codes and Ordinance Repealed

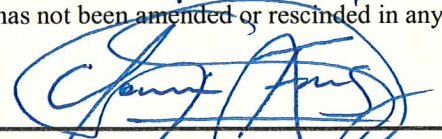
All Ordinances or provisions of any previously enacted ordinances of the Tribe, except those Ordinances that require approval of the General Membership, that conflict in any way with the provisions of this Ordinance are hereby repealed.

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, held on this 7th day of November, 2016 and that this Ordinance has not been amended or rescinded in any way.



 Claudia Brundin, Chairperson.



 ATTEST: Yasmin Frank Executive Secretary