



SUSANVILLE INDIAN RANCHERIA

ORDINANCE NO. 2010-002

ORDINANCE OF THE TRIBAL BUSINESS COUNCIL OF THE SUSANVILLE INDIAN RANCHERIA PROVIDING FOR THE EXCLUSION OF PERSONS FROM THE RANCHERIA

The Tribal Business Council of the Susanville Indian Rancheria hereby ordains as follows.

SECTION ONE. FINDINGS.

1. At various times persons present or residing on the Rancheria have engaged in behaviors which have threatened or disrupted the peace and security of residents of the Rancheria or persons visiting the Rancheria for business or pleasure.
 - a. Some of these people have discharged firearms at and in the vicinity of other residents.
 - b. Some of them engage in loud and boisterous conduct involving the use of illegal drugs and alcohol. Residents, including seniors, have been threatened or assaulted.
 - c. Other Rancheria residents are reluctant to speak out against these people for fear of their physical safety
2. The Tribal Business Council finds and declares that these conditions are detrimental to the physical and emotional well being of its members and cause damage to real and personal property and the general deterioration of living conditions on the Rancheria.
3. The Tribal Business Council finds and declares that these conditions justify extraordinary measures to reverse these trends and to restore order, safety, tranquility and stability to the Rancheria in general and the housing units in particular.

SECTION TWO. EXCLUSION OF PERSONS FROM RANCHERIA.

The Tribal Business Council hereby adds the following sections to the Susanville Indian Rancheria Tribal Code to read as follows:

Section 1. Exclusion of Persons from the Rancheria.

1. It is unlawful and constitutes a violation of this Ordinance for any person to enter or remain upon any portion of the Susanville Indian Rancheria, if they have been excluded from the Rancheria by order of the Tribal Business Council and they have been personally served with a Notice to Show Cause under Section 3.1 or 4 and failed to attend the noticed hearing or, if they attended the hearing, they have been personally served with an order, issued after conducting the hearing, excluding them.
2. It is unlawful and constitutes a violation of this Ordinance for any owner or tenant of housing located on the Rancheria to allow a person excluded from the Rancheria under Section 1.1 to enter, occupy or remain upon or within their home or rental unit, after notice of exclusion has been given as provided in Section 5.

Section 2. Order of exclusion, grounds.

The Tribal Business Council shall have the authority to issue an order under Section 1, excluding a person from the Rancheria for a specified time period or permanently. It may issue such an order to any person who:

1. As demonstrated by past conduct, constitutes a threat to the peace and quiet or personal safety of persons who live and work on the Rancheria or an unreasonable risk of injury or damage to or loss of property located on the Rancheria.
2. Has committed any of the following acts on the Rancheria:
 - a. Sold any illegal drug.
 - b. Provided alcohol to any minor.
 - c. Discharged a firearm.
 - d. Possessed a loaded firearm.
 - e. Pointed a gun, whether loaded or unloaded, at any person in a threatening manner.
 - f. Willfully damaged any house on the Rancheria.

- g. Engaged in loud and disruptive behavior outside and in the vicinity of any occupied dwelling, after being asked to stop.
- h. Physically assaulted any person with or without a weapon.
- i. Threatened with or without a weapon to physically assault any person.
- j. Violated any order of exclusion or Section 1.2.

Section 3. Order of exclusion, procedure.

The Tribal Business Council shall issue orders under Section 1, using the following procedure.

1. **Notice of Violation.** Whenever the Tribal Chairman or any member of the Tribal Business Council has reason to believe that a person is subject to an order under Section 1 for any of the reasons stated in Section 2, he or she may issue a notice ("Notice to Show Cause") to that person ("the defendant") in the form and containing the information set forth in Form 0.1 attached hereto and incorporated herein.

The Notice to Show Cause shall be personally served. Any person over the age of 18 may serve the notice by handing it to the defendant. Thereafter, the person serving the notice shall complete a certification of personal service on a form provided by the Tribal Business Council and shall file it with the Tribal Business Council prior to the hearing.

2. **Pre-exclusion hearing.**
 - a. The hearing on the Notice to Show Cause shall be conducted at a regular or special meeting of the Tribal Business Council at which a quorum is present. All action shall be taken based on an affirmative vote of the majority of those council members present. The defendant shall have the right to appear and be represented by a person of his or her choice. The hearing shall be conducted informally and in confidence, excluding the general public, except for witnesses called by the defendant or the Tribal Business Council and the defendant's representative, if any. The defendant must provide the Tribal Business Council with a mailing address and may present the testimony of witnesses, produce documents and provide any explanation or argument he or she believes is appropriate.
 - b. After the defendant has presented his case, the Tribal Business Council may deliberate in closed session. It shall announce its decision with the defendant present and shall serve him with an order in the form and containing the statements set forth in Form 0.2, which is attached hereto and incorporated herein. The Tribal Business Council may issue the Order contained in Form

0.2, if the defendant fails to appear at the hearing. In that event, the Tribal Business Council may mail the Order to the defendant, if it has a mailing address for him or her. If not, the Tribal Business Council shall be required to give only the notice provided in Section 5.

- c. If the Notice to Show Cause is discharged after hearing, subject to conditions, the order of exclusion shall be automatically reinstated if the defendant violates any condition. Notice of reinstatement may be given by mail to the address provided by the defendant. The order of exclusion shall become effective twenty-four (24) hours after it is mailed. Thereafter, the Tribal Business Council shall give the notice provided in Section 5 and the defendant shall be entitled to a hearing as provided in Section 3.3.

3. **Post-exclusion hearing.**

- a. **Notice.** The notice of the post-exclusion hearing shall contain all of the following.
 - i. The date, time, and location of the hearing.
 - ii. The ground or grounds upon which the Tribal Business Council relies in excluding the defendant from the Rancheria, including, as attachments, any documents, records or applicable tribal regulations.
 - iii. A statement that the defendant has the right to examine any documents, records or regulations related to his or her exclusion from the Rancheria which are not attached to the notice, if he or she identifies the documents and requests to inspect them, at least, five (5) days prior to the scheduled hearing time.
 - iv. A statement that the defendant is entitled to be represented at the hearing by another person of his or her choice, including an attorney at law; provided, however, that the defendant must bear all the costs of his or her representation.
 - v. A statement that the Tribal Business Council must present the evidence, including witnesses and documents, it relied upon in issuing the exclusion order. The defendant is entitled to ask questions of any witnesses who testify at the hearing and to present evidence and make statements on his or her behalf.
 - vi. The Tribal Business Council, or a hearing officer appointed by the Tribal Business Council to conduct the hearing, will issue a written decision which may be adopted, modified or reversed by the Tribal Business Council. If the Tribal Business Council modifies or reverses the hearing officer's decision, it may conduct a further hearing or rely on the facts

found by the hearing officer. The decision of the Tribal Business Council shall be final.

4. Hearing.

Upon the timely receipt of a hearing request, the Tribal Business Council shall schedule a hearing before the Tribal Business Council or an impartial hearing officer appointed by the Tribal Business Council.

- a. If a hearing officer is appointed, he or she should be trained to conduct hearings and prepare written decisions after hearing. The hearing officer must not have had any involvement in the decision to exclude the defendant from the Rancheria. The hearing officer shall issue written recommended decisions which make findings of fact and set forth the legal and factual basis for his or her decision. The hearing officer shall immediately transmit his or her recommended decision to the Tribal Business Council.
- b. If the Tribal Business Council uses a hearing officer, it shall adopt, modify or reverse the hearing officer's decision within seven (7) days after it receives it. The recommended decision shall be sent to the defendant as the Tribal Business Council's final decision, if it adopts the decision as proposed or fails to act within the said seven (7) days. If the Tribal Business Council determines to modify or reverse the decision, it may adopt the findings of fact proposed by the hearing officer or it may conduct such further hearings in the matter as it deems necessary or appropriate. If it conducts a further hearing, it shall provide the defendant not less than seven (7) days prior written notice of the date, time and place of the hearing. The Tribal Business Council shall serve its final written decision on the defendant by mail.
- c. The Tribal Business Council or hearing officer, if one is appointed, shall conduct the hearing in accordance with the following rules and any additional procedures adopted that are not inconsistent with these rules and promote the fair and efficient resolution of the dispute.
 - i. The party requesting the hearing shall have the following rights:
 - (a) The opportunity prior to the hearing to examine and copy, at his or her expense, any records, documents or regulations that relate to the decision, which he or she identifies with reasonable specificity at least five (5) days prior to the hearing.
 - (b) The right to be represented, at his or her own expense, by a person of his or her choice.

- (c) The right to exclude from the hearing any person, other than the hearing officer and his or her assistants, who is not testifying or presenting evidence in support of the decision.
- (d) The right to present witnesses or documents and to make arguments in support of his or her position, and to question all witnesses testifying at the hearing.
- ii. The hearing shall be conducted informally and the technical rules of evidence shall not apply, but the Tribal Business Council or hearing officer may exclude evidence that is inherently unreliable, irrelevant or unduly prejudicial. All witnesses shall swear or affirm to tell the truth before testifying.
- iii. If the defendant fails to appear at the hearing, the Tribal Business Council or hearing officer may continue the hearing for not more than five (5) days or determine that the defendant has waived his or her right to a hearing. The Tribal Business Council or hearing officer shall provide timely notice of his or her decision to the defendant.
- iv. At the hearing, the defendant must first make a showing that he or she should not be excluded from the Rancheria for the reasons stated in the Notice of Hearing. A representative appointed by the Tribal Business Council shall present evidence supporting the order of exclusion.
- v. The Tribal Business Council or hearing officer must base its decision on the evidence presented during the hearing and applicable Tribal law.

Section 4. Order of Exclusion - minors.

In the case of persons under the age of 18, the Tribal Business Council shall personally serve a Notice to Show Cause in the form and containing the statements set forth on Form 0.3, which is incorporated herein by reference, on both the defendant and his or her parent, legal guardian or person in apparent charge of the minor (collectively, "parent or parents"). The parent shall have the same rights as the minor to notice and to participate in the pre- or post-exclusion hearing.

Among other issues, at the hearing the Tribal Business Council will endeavor to determine if a suitable placement for the minor exists outside the boundaries of the Rancheria. If a suitable placement does not exist, and it determines that the minor should be excluded, it shall exclude both the minor and his or her parent or parents.

After the hearing, the Tribal Business Council shall issue the order specified in Form 0.4, which is attached hereto and incorporated herein.

Section 5. Notice of Order of Exclusion.

1. Upon the issuance of an Order After Hearing, as described in Section 3.2 or 4, excluding a person from the Rancheria, the Tribal Business Council shall give public notice of the order and any subsequent discharge of the order, by the following means:
 - a. By posting the notice for a period of five (5) days at the tribal office and at the entrance to the housing units and the Rancheria. The Tribal Business Council may establish signs at the entrance to the Rancheria and the housing units, stating: "Entrance Prohibited to Persons Excluded by Order of the Tribal Business Council. No Trespassing by Such Persons. Prohibited Entry Subject to Criminal Penalties (Cal. Penal Code '602.)".
 - b. By mailing notice to the Susanville Indian Rancheria Housing Authority and the Susanville Indian Rancheria Corporation.
 - c. By mailing notice to each tenant in the housing units.
 - d. By mailing notice to the Lassen County Sheriff's Department.
 - e. By mailing notice to the City of Susanville Police Department.
2. The notice shall be in the form and contain the statements set forth in Form 0.5, attached hereto and incorporated herein.
3. After the issuance of the notice provided in this Section 5, the Susanville Indian Rancheria Housing Authority and the Susanville Indian Rancheria Corporation shall not rent any housing under its management to a person excluded from the Rancheria under this Ordinance or to any person who violates Section 1.2 of this Ordinance, and shall terminate the lease with and take all steps legally required to evict any such person.

Section 6. Tribal Enforcement Officials.

1. The Tribal Business Council shall appoint such number of tribal enforcement officials as it deems necessary to enforce the provisions of this Ordinance.
2. Such appointed officials shall carry such identification and wear such uniforms as the Tribal Business Council determines necessary to adequately identify the officials to members of the general public.

3. Such officials shall receive such compensation and training as the Tribal Business Council determines necessary to enable the officials to carry out the duties assigned to them in a safe, professional and efficient manner.
4. Such officials shall have the following duties and authority:
 - a. To escort persons subject to exclusion orders to a location outside the boundaries of the Rancheria, using only as much force as is reasonably necessary for such exclusion.
 - b. To take custody of the possessions of a person who is subject to an order of exclusion and remove those possessions to a location outside the boundaries of the Rancheria or to store the possessions at the person's expense. In removing possessions, the official shall exercise ordinary and reasonable care to avoid damage to the possessions, while they are in his or her custody.
 - c. To restrain a person, exercising such restraint as is reasonable for his or her arrest and detention, pending transfer of the person to the custody of a county sheriff or other state or federal peace officer.
 - d. Such officials shall not carry or use fire arms or other weapons unless or until the Tribal Business Council establishes specific training in their proper use and authorizes their use in a separate tribal ordinance.
5. At the direction of the Tribal Business Council, the tribal enforcement officials shall enforce tribal exclusion orders by removing the person excluded and their possessions from the Rancheria or storing the possessions at the person's expense.
6. If the possessions are stored, the tribal enforcement official shall prepare an inventory of the items and mail a notice to the defendant that he or she may recover possession of the property upon payment of seizure and storage costs. If the defendant fails to retake possession of the items within fifteen (15) days of the date notice is mailed, the enforcement officials may sell or otherwise dispose of the property. They shall mail the proceeds from the sale of the property to the defendant, after first deducting the costs of seizure, storage and sale.

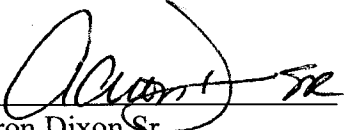
Section 7.

Nothing in this Ordinance is intended to waive the tribal sovereign immunity enjoyed by the Tribe or its officials acting within the course and scope of their office or as consent to suit. In carrying out the provisions of this Ordinance, tribal officers and employees are deemed to be exercising the policy making authority of the Tribe and enjoy the Tribe's sovereign immunity from suit.

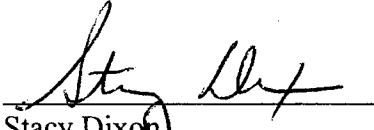
CERTIFICATION

We, hereby certify that the Susanville Indian Rancheria Exclusion Ordinance was adopted by the Susanville Indian Rancheria Tribal Business Council at a duly called meeting held November 22, 2010 with a vote of 7 for, 0 against, 0 abstain.

ATTEST;



Aaron Dixon Sr.
Secretary/Treasurer



Stacy Dixon
Tribal Chairman

FORM 0.1

**NOTICE TO SHOW CAUSE WHY YOU SHOULD NOT BE
EXCLUDED FROM THE SUSANVILLE INDIAN RANCHERIA**

TO: [Name of person]

You are ordered to appear before the Tribal Business Council in the _____
at _____ .m., on _____, 201__, [a time not sooner than 24 hours from the
date the notice is served] to show cause why you should not be excluded from the
Susanville Indian Rancheria ("Rancheria") from and after _____,
201__ to and including _____ indefinitely. [Check one]

This notice is based on the following conduct:

Date or dates: _____

Location or locations: _____

Act or acts: _____

At the date and time indicated above, the Tribal Business Council will explain why it believes you should be excluded from the Rancheria. You will have the opportunity to present any evidence or argument you may have why the Tribal Business Council should not issue the order.

If the Tribal Business Council issues the order, you must immediately vacate the Rancheria and not reenter, while the order is in effect, except to participate in the hearing described below.

If the Tribal Business Council issues the order, you will have ten (10) days from the date the order is served upon you to request a hearing before the Tribal Business Council by mailing a written request to 745 Joaquin St., Susanville, CA 96130. The Tribal Business Council must receive the hearing request within ten (10) days. The written notice must state the reasons you are requesting a hearing and a mailing address to which all future notices shall be sent.

Notice to Show Cause - Page 2
Form 0.1

Upon receipt of the written hearing request, the Tribal Business Council will schedule a hearing not later than fifteen (15) days from the date it receives your request. Not later than ten (10) days before the hearing, the Tribal Business Council will mail to you written notice of the time and date of the hearing. That notice will explain your rights at the hearing.

DATED: _____

TRIBAL BUSINESS COUNCIL

By: _____

Form 0.2

ORDER AFTER HEARING

THE TRIBAL BUSINESS COUNCIL OF THE SUSANVILLE INDIAN RANCHERIA after conducting a hearing on _____, 201__, hereby orders:

The Notice to Show Cause issued _____, 201__, is hereby affirmed. _____ is hereby excluded from the Susanville Indian Rancheria, beginning at _____ .m. on _____, 201__ until _____ .m. on _____, 201__ or indefinitely. [Check one.] YOU ARE PROHIBITED FROM ENTERING OR REMAINING UPON THE RANCHERIA WHILE THIS ORDER REMAINS IN EFFECT. IF YOU VIOLATE THIS ORDER, TRIBAL ENFORCEMENT OFFICIALS MAY REMOVE YOU AND YOUR POSSESSIONS FROM THE RANCHERIA. YOU MAY BE GUILTY OF CRIMINAL TRESPASS UNDER THE CALIFORNIA PENAL CODE AND SUBJECT TO ARREST AND IMPRISONMENT.

The Notice to Show Cause issued _____, 201__, is hereby discharged subject to the following conditions:

DATE OF SERVICE: _____

CERTIFICATION

We, the undersigned duly elected officials of the Susanville Indian Rancheria, do hereby certify that on _____, 201__, the foregoing Order was adopted at a duly called meeting of the Susanville Indian Rancheria Tribal Business Council held _____, 201__ with a vote of ___ for, ___ against, ___ abstain.

ATTEST;

Aaron Dixon Sr.
Secretary/Treasurer

Stacy Dixon
Tribal Chairman

Form 0.3 (Minors)

NOTICE TO SHOW CAUSE WHY YOU SHOULD NOT BE EXCLUDED FROM THE SUSANVILLE INDIAN RANCHERIA

TO: [Name of person, and his or her parent or guardian]

You are ordered to appear before the Tribal Business Council in the _____ at _____ .m., on _____, 201____, [a time not sooner than 24 hours from the date the notice is served] to show cause why you should not be excluded from the Susanville Indian Rancheria ("Rancheria") from and after _____, 201____ to and including _____ indefinitely. [Check one]

This notice is based on the following conduct:

Date or dates: _____

Location or locations: _____

Act or acts: _____

At the date and time indicated above the Tribal Business Council will explain why it believes _____ should be excluded from the Rancheria. You will have the opportunity to present any evidence or argument you may have why the Tribal Business Council should not issue the order.

If the Tribal Business Council issues the order, _____ must immediately vacate the Rancheria and not reenter, while the order is in effect, except to participate in the hearing described below. If you have no proper placement for _____ outside the Rancheria boundaries, as his or her parent or legal guardian, you will be excluded from the Rancheria also.

If the Tribal Business Council issues the order, you will have ten (10) days from the date the order is served upon you to request a hearing before the Tribal Business Council by mailing a written request to 745 Joaquin St., Susanville, CA 96130. The Tribal Business Council must receive the hearing request within ten (10) days. The written notice must state the reasons you are requesting a hearing and a mailing address to which all future notices shall be sent.

Notice to Show Cause - Page 2
Form 0.3

Upon receipt of the written hearing request, the Tribal Business Council will schedule a hearing not later than fifteen (15) days from the date it receives your request. Not later than ten (10) days before the hearing, the Tribal Business Council will mail to you written notice of the time and date of the hearing. That notice will explain your rights at the hearing.

DATED: _____

TRIBAL BUSINESS COUNCIL

By: _____

Form 0.4 (Minors)

ORDER AFTER HEARING

THE TRIBAL BUSINESS COUNCIL OF THE SUSANVILLE INDIAN RANCHERIA after conducting a hearing on _____, 201__, hereby orders:

The Notice to Show Cause issued _____, 201__, is hereby affirmed. _____ and [check, if applicable] _____ his or her parent(s)/legal guardian(s) is/are hereby excluded from the Susanville Indian Rancheria, beginning at _____ .m. on _____, 201__ until _____ .m. on _____, 201__ or indefinitely. [Check one.] **YOU ARE PROHIBITED FROM ENTERING OR REMAINING UPON THE RANCHERIA WHILE THIS ORDER REMAINS IN EFFECT. IF YOU VIOLATE THIS ORDER, TRIBAL ENFORCEMENT OFFICIALS MAY REMOVE YOU AND YOUR POSSESSIONS FROM THE RANCHERIA. YOU MAY BE GUILTY OF CRIMINAL TRESPASS UNDER THE CALIFORNIA PENAL CODE AND SUBJECT TO ARREST AND IMPRISONMENT.**

The Notice to Show Cause issued _____, 201__, is hereby discharged subject to the following conditions:

DATE OF SERVICE: _____

CERTIFICATION

We, the undersigned duly elected officials of the Susanville Indian Rancheria, do hereby certify that on _____, 201__, the foregoing Order was adopted at a duly called meeting of the Susanville Indian Rancheria Tribal Business Council held _____, 201__ with a vote of ___ for, ___ against, ___ abstain.

ATTEST;

Aaron Dixon Sr.
Secretary/Treasurer

Stacy Dixon
Tribal Chairman

Form 0.5

PUBLIC NOTICE OF EXCLUSION

PLEASE TAKE NOTICE that on _____, 201_, the Tribal Business Council of the Susanville Indian Rancheria issued an order excluding _____ [list name or names] from the Susanville Indian Rancheria. Beginning at _____ .m. on _____, 201_, and until _____ .m. on _____, 201_ or until further order of the Tribal Business Council [Check one]. _____ is/are prohibited from entering or remaining upon any portion of the Susanville Indian Rancheria.

Under Section 1.2 of the Tribal Ordinance Providing for the Exclusion of Persons From the Susanville Indian Rancheria, any person who owns, rents or controls housing on the Rancheria may not allow _____ to enter, occupy or remain upon or within their home or rental unit, after the date of this notice. A violation of Section 1.2 may subject you to exclusion from the Rancheria or other penalties as provided in the Ordinance.

DATED: _____

Tribal Chairman