



SUSANVILLE INDIAN RANCHERIA

SOLID WASTE ORDINANCE NO. 2004-002

AMENDMENT 1

A. TITLE

This Ordinance shall be titled "Solid Waste Ordinance".

B. STATEMENT OF FINDINGS

The Susanville Indian Rancheria ("SIR" or "Tribe") and the SIR Tribal Business Council (TBC) finds and declares as follows:

1. The people of Susanville Indian Rancheria have a primary interest in the protection and control of the land and other natural resources affected by the improper disposal of solid waste within the Rancheria, and the quality of such land and other natural resources must be protected to ensure the health, economic, aesthetic and cultural desires to ensure the health and well being of all people on the SIR, residents and visitors alike.
2. It is in the best interest of the SIR to develop an organized and efficient system for the storage, collection, and transportation of solid waste.
3. The failure to properly store and dispose of solid waste Person creates a public nuisance which can produce odor, nuisance, pests, rodents and disease.
4. The optimal method for disposing of solid waste generated by all residents and businesses of the SIR involves transporting such solid waste to an off-reservation landfill and/or recycling materials as the Tribe develops programs to recycle said materials. Disposal and/or dumping on tribal lands and waters is forbidden.

C. PURPOSE

1. The purpose of the SIR Solid Waste Ordinance is to prevent the unregulated accumulation of Solid Waste and Hazardous Waste, to prevent the improper disposal of such materials on the Lands of the Susanville Indian Rancheria and to require the proper and timely transportation of disposal of such material for the protection of the general welfare of tribal members and families residing on the Rancheria.
2. This ordinance integrates solid waste management into an overall environmental protection system and is within the approved SIR Integrated Solid Waste Management

Plan (ISWMP) that protects the Rancheria's soil, water, air, plants, animals, residents and visitors. As recommended in the Integrated Solid Waste Management Plan, the Tribe encourages solid waste source reduction on the SIR.

D. AUTHORITY

The Susanville Indian Rancheria's General Council, via the Tribal Constitution, gave power to the Tribal Business Council to conduct business on behalf of the Susanville Indian Rancheria effective May 18, 2005. Specifically, Article VI, Section 2, subsections (f), (k), and (l) allows the Tribal Business Council to enact ordinances for the purpose of protecting tribal lands, water, minerals, and all other natural resources within tribal jurisdiction and to provide enforcement of these ordinances.

E. JURISDICTION

The provisions of this ordinance shall apply to all present and future lands within the boundaries of the Susanville Indian Rancheria, and lands owned by the Tribe in fee or by the United States of America in trust for the Tribe.

F. DEFINITIONS

In construing the provision of this ordinance, the following words or phrases shall have the meaning, unless a different meaning is expressly provided, or the context clearly indicates otherwise:

Approved Site means for disposal of Solid Waste any fully-permitted Subtitle D Landfill, approved by the Tribe or any authorized transfer station for ultimate disposal of Solid Waste at such a landfill, and for the disposal of Hazardous Waste any fully permitted Subtitle C disposal site approved by the Tribe. Subtitles C and D refer to Subtitles C and D of the federal Resource Conservation and Recovery Act (RCRA).

Hazardous Waste means any solid, liquid, or gaseous waste defined as hazardous by any federal, tribal, or California state law, rule, ordinance or regulation. Hazardous waste includes, but not limited to, materials considered to be excessively toxic, poisonous, corrosive, radioactive, biologically infectious, explosive, flammable, or any combination of materials that have the potential to become hazardous.

Landfill means an area of land or an excavation in which solid wastes are placed for permanent disposal, and that is not a land treatment unit, surface impoundment, injection well or waste pile. This definition may also include landfills and transfer stations that have been approved by Lassen County and operated by the Lassen County Solid Waste Management Authority.

Lands of the Susanville Indian Rancheria means any land owned by the Tribe or any land held in trust for the Tribe by the United States of America.

Owner means the land assignee or primary resident of a tribal land assignment.

Permitted Contractor means a Person who has a valid permit from the Tribe or County to collect and transport solid waste or is a Lassen County franchised waste hauler.

Person means any public or private corporation, company, partnership, firm, association or society of Persons, or entity, including governmental entities, as well as a natural Person tribal or non-tribal, including a business owned or operated by such Person.

Rubbish means and includes all putrescible or non-putrescible solid and semisolid waste, whether combustible or noncombustible, including both garbage and rubbish.

Solid Waste means all solid and semi-solid wastes, including any garbage, trash, rubbish, sludge, ashes, dead animals, abandoned vehicles, infectious wastes, manure, street and parking lot cleaning residues, industrial wastes, and other waste material, but not including domestic sewage.

Tribal Business Council means the Susanville Indian Rancheria, California, Tribal Business Council created pursuant to the Tribe's Constitution.

Tribe means the Susanville Indian Rancheria, California, acting through its duly constituted Tribal Business Council.

Weeds means and includes, but is not limited to, weeds with mature wingy or downy seeds, which will attain growth as to become a fire menace when dry, or which are otherwise noxious or dangerous.

G. APPLICABILITY

1. The Solid Waste Ordinance shall be applicable to any Person generating, producing, storing, or permitting the storage of Solid Waste or Hazardous Waste on Lands of the Susanville Indian Rancheria. Any Person who has generated or received any Solid Waste or Hazardous Waste shall be responsible for the proper storage, removal, transport, and disposal of such material. Solid waste and Hazardous Waste, while being transported, shall be covered, tied or otherwise secured so waste will not be blown or dropped from the transport.
2. In addition to other Persons who may be responsible as set forth in this ordinance, a Person generating Solid Waste or Hazardous Waste is responsible for the lawful storage, removal, transport and disposal of that material until it is legally deposited in an Approved Site or accepted for transport by a waste hauler franchised by Lassen County.
3. When Solid Waste or Hazardous Waste is dumped or deposited in violation of this ordinance and three or more items in the material identify the same Person or a Person or Persons from the same household or address as the owner or recipient of that item, there shall be a rebuttable presumption that such Person is responsible for the unlawful dumping of solid waste.

4. Any Person who by contract, agreement or otherwise arranges for the recovery, transport, disposal or dumping of Solid Waste or Hazardous Waste is responsible for complying with the provisions of this ordinance regarding that material.

H. PROHIBITIONS – UNLAWFUL STORAGE AND DISPOSAL OF SOLID WASTE

1. It shall be unlawful and constitute a violation of this ordinance for any Person to deposit, dump, accumulate or to permit, cause or suffer any Solid Waste or Hazardous Waste to be deposited, kept or accumulated upon any lot or parcel of land, or on any public or private place or premises, street, land, alley or drive, unless the same shall be kept, deposited or allowed to accumulate as required or permitted by this ordinance.
2. It shall be unlawful on the Lands of the Susanville Indian Rancheria for any Person to deposit Solid Waste or Hazardous Waste in the gutters or upon the sidewalks adjacent to the gutter, or upon the public streets or upon any property occupied or maintained by the Tribe, except for an Approved Site.
3. Any and all garbage deposited, kept or accumulated or permitted to be deposited, kept or accumulated on the Lands of the Susanville Indian Rancheria shall be in a receptacle either approved by a waste hauler franchised by Lassen County or approved by the Tribal Business Council. Each said receptacle shall have a capacity of not less than five (5) gallons and shall not exceed a capacity of forty-five (45) gallons unless specifically authorized by Lassen County, the waste hauler franchised by Lassen County, the Lassen County Solid Waste Management Authority, or the Tribal Business Council, and shall be provided with a close fitting lid or other suitable covering at all times except when necessarily opened to permit garbage to be taken therefrom or to be deposited therein. Each such receptacle for garbage, including its cover, shall, upon the outside, be kept clean from accumulating grease or decomposing material. No container shall be loaded heavier than two hundred (200) pounds without the approval of Lassen County, the waste hauler franchised by Lassen County, the Lassen County Solid Waste Management Authority or the Tribal Business Council.
4. No Person shall allow, permit or suffer to be kept or maintained any accumulation of garbage longer than seven (7) days at any one time without removing or causing the removal and disposal of the same.
5. No garbage or rubbish or other refuse shall be removed and carried on and along the streets and alleys of the Tribe except that the same be carried, conveyed or hauled in conveyances so constructed as not to permit matter to blow, sift through or fall therefrom upon said streets and alleys. The contents of such conveyance must be covered so as to present the same from falling to or being blown upon the streets, alleys and adjacent lands.

6. It is unlawful to burn or cause to be burned any trash, rubbish, refuse or debris in an open fire without having first secured a burn permit from the Natural Resources Department. Such burning shall not be permitted except within the hours of six a.m. to two p.m. On each permit there shall be stated the conditions of burning which must be complied with.

I. RECOVERY OF DISPOSAL COSTS

1. If a Person violates this ordinance and the Tribe arranges for or executes the lawful disposal of solid waste that Person shall be liable to the Tribe for all reasonable costs and expenses associated with transportation and disposal of that solid waste.
2. The Natural Resources Department (NRD) will report to the Tribal Business Council any violation of this ordinance. Upon receipt of the report and a determination of probable cause to believe such violation has occurred, the Tribal Business Council shall direct the issuance of a ten (10) days notice of intention to abate and remove solid waste to the Person responsible for the solid waste, including a tribal member or other Person in possession of property where the solid waste is located. The notice shall be Personally served or mailed (by registered or certified mail) to such Person or Persons. Notice served by registered or certified mail shall be deemed served, when the receipt is signed or 48 hours after deposited in the mail, whichever occurs first.
3. If the solid waste is not removed in accordance with the requirements of this ordinance within said ten (10) days of when notice is serviced and the Tribal Business Council determines after consideration of evidence or argument submitted by the Person or business alleged to be in violation of this ordinance, that Person is liable for the costs of removal or any other penalties or fines imposed under the provisions of this ordinance, it shall issue an order setting forth the Person's liability. The payment of the liability shall be enforced as provided in section (K) of this Ordinance.
4. If the Person identified as being responsible for the solid waste is a non-tribal member, the Tribal Business Council or its designee shall pursue all remedies, whether administrative or judicial, at law or in equity, including referral to the Lassen County Enforcement officer, as defined in Lassen County Code Section 1.20.020 for issuance and enforcement of an administrative citation under Title 1, Chapter 1.20 of the Lassen County Code and/or to the City of Susanville for violations taking place on the portion of the Rancheria within city limits..

J. REGULATIONS

The sections of this ordinance are numbered the same as Title 8 of the Susanville Municipal Code, entitled: Health and Safety so that if a Person is cited for a violation, the code number in a notice of violation or citation is the same for both the Tribe and the City of Susanville.

8.08.040 License to collect garbage, recyclables and refuse.

A license required to collect garbage, recyclables and refuse shall be obtained from the Lassen Regional Solid Waste Management Authority, unless a Lassen County Solid Waste Hauler franchisee is exempt from licensure by the Authority.

8.08.060 Garbage, recyclables and refuse rates.

The monthly and any other rates for the pickup, transportation, removal and disposal of garbage, recyclables and refuse for all customers within the Susanville Indian Rancheria that subscribe to trash service through Lassen County's approved Solid Waste franchisee shall be established by the Lassen Regional Solid Waste Management Authority.

8.12.010 Burning trash, rubbish, etc., Generally.

It is unlawful to burn or cause to be burned any trash, rubbish, refuse or debris in an open fire without having first secured a burn permit from the NRD. Such burning shall not be permitted except within the hours of six a.m. to two p.m. On each permit there shall be stated the conditions of burning which must be complied with. The following conditions set by Susanville Indian Rancheria must be complied with:

1. Only natural vegetative material such as leaves, pine needles and tree trimmings may be burned.
2. Household garbage, plastic, metals, Styrofoam, food waste may NOT be burned.
3. Burning is prohibited on windy days.
4. No burning shall occur unless the Person proposing a burn has contacted the Lassen County Air Pollution Control District and heard a recorded message indicating that the burn will occur on a permissible burn day.
5. Burning is only permitted on the ground and in a pit.
6. The Person conducting the burn shall have a shovel, water source, and if possible, a fire extinguisher on hand.
7. The site of the proposed burn must not contain combustibles that are within ___ feet of the location of the burn pile.
8. Adequate adult supervision is required at all times during burning operations.

8.12.020 Burning trash, rubbish, etc., by business.

It is unlawful for any Person having an established business at a fixed location, or who shall hereafter establish a business at a fixed place, to burn or cause to be burned any trash, refuse, rubbish or debris material or matter of any description whatever on the business premises, except in a furnace or stove having a flue or chimney not less than five feet in length, or if not in such a container such burning shall be done in an incinerator which has had the prior approval of the fire chief for the Tribe or the City of Susanville or duly authorized agent, which shall be kept by the operator of the

incinerator. Such approved incinerator must be kept in good operative condition and will be subject to periodic inspection.

8.12.030 Permit required to burn grass on vacant lots or open spaces.

The Tribal Business Council or duly authorized representative from the Natural Resources Department may grant a special permit to burn grass upon vacant lots or other open spaces. No such burning will be lawful without such permit. Applicant for such permit will furnish the description of the lot or other open spaces to be burned. The permit shall describe the area to be burned, shall be for one day only, will set forth the time of such burning and shall require due precaution to be taken to prevent the spread of fire. The Tribal Business Council may impose additional requirements as deemed necessary.

8.12.040 Premises to be kept free of fire hazards.

Every Person occupying premises as Owner or lessee shall keep the premises free of all material constituting a fire hazard. Where the Tribal Business Council or duly authorized representative from the Natural Resources Department finds that a fire hazard exists, he or she shall notify the Owner or lessee of the premises to remove the hazard. Failure to comply within a reasonable time as determined by the Tribal Business Council or duly authorized representative from the Natural Resources Department, is a violation of this ordinance.

8.12.050 Burning trash, rubbish, etc.—Hours permitted.

It is unlawful for any Person, except public institutions and Persons required by law, to burn debris, trash or rubbish in any incinerator at any time other than between the hours of six a.m. and two p.m.

8.28.030 Weeds and rubbish prohibited

It is unlawful for the Owner, lessee or other Person having charge or control of any piece or parcel of the Lands of the Susanville Indian Rancheria to allow weeds or rubbish to grow or to remain thereon, or upon the street or sidewalk in front of such piece or parcel of land to the extent that said weeds or rubbish become or pose a fire hazard.

K. ENFORCEMENT

1. It shall be the duty of a Permitted Contractor, when directed by the Tribal Business Council or its designated agent, to immediately call at any premises or location within the Lands of the Susanville Indian Rancheria, to which the contractor may be directed by said officials, and where solid waste is accumulated and there collect and remove said solid waste considered by such officers to be a health or safety menace in accordance with provisions of this ordinance. Such cost involved in said removal shall be paid for by the tenant or Owner of the premises, and the Person who

disposed or accumulated the solid waste. The cost shall be the joint and several liability of both.

2. The NRD is hereby specifically required to enforce the provisions of this ordinance, and shall have the right to enter any and all premises for the purpose of determining whether provisions in this Ordinance are being complied with, and any Person denying or obstructing such entry shall be subject to the penalty herein provided. It shall be unlawful for any Person in any manner to interfere with the collection or disposal of Solid Waste by any Permitted Contractor.
3. Annually, the NRD shall advise the Tribal Business Council of possible violations of this ordinance. The Tribal Business Council shall make a determination as to whether or not there has been a violation of this ordinance. Upon finding that an individual has intentionally violated a provision of this ordinance, including failure to rectify a determined violation within a reasonable time period or as particularly prescribed by the Tribal Business Council, the Tribal Business Council shall, at its option, proceed as follows:

A) Initiate the abatement and removal of solid waste.

The sections of this ordinance are numbered the same as in Title 8 of the City of Susanville Municipal Code, entitled: Health and Safety so that if a Person is cited for a violation, the code section violated will be the same whether the citation is issued by the Tribe or the City of Susanville.

8.28.040 Abatement procedure

In the event of a violation of Section 8.28.030, the TBC designated representative shall proceed as follows:

1. Notice to Remove. The Tribe's designated representative is authorized to give notice to the Owner, lessee or other Person having charge or control of the property, to order the removal of weeds or rubbish from the property or abutting public property within ten (10) days. Such notice shall be delivered by certified mail, return receipt requested (hereinafter referred to as "certified written notice" addressed to such Owner, agent, lessee or other Person having charge or control, at his or her last known address. In the event the notice by certified mail is directed to one other than the Owner, a courtesy copy of the notice shall be sent by regular first-class mail to the Owner at his or her last known address on file with the Tribal Office.
2. Action Upon Noncompliance. Upon the failure, neglect or refusal of any Owner, agent, assignee, occupant, lessee or other Person having charge or control of Lands of the Susanville Indian Rancheria to properly destroy weeds or remove rubbish within ten (10) days after receipt of the written certified notice, the Tribe's designated representative is authorized to pay from the Tribe's Government Administrative Fund for the destruction or removal of

such weeds or rubbish. In the event that the written certified notice is returned to the post office because of inability to make delivery, the Tribe's designated representative shall cause a written notice to be posted on the property, allowing ten (10) days, from the date of posting, for compliance with the order. Failure, neglect or refusal to take compliance action shall empower the Tribe to pay for the destruction or removal of such weeds or rubbish.

3. If the Owner, agent, occupant, lessee or other Person having charge or control of Lands of the Susanville Indian Rancheria fails to remove or destroy weeds and rubbish in accordance with the notice given, within ten (10) days after the mailing of such notice, or within ten (10) days after the posting of such notice where that is the case, it shall be the duty of the Tribe's designated representative to destroy or cause to be destroyed, or remove or cause to be removed, such weeds or rubbish, and the Tribe's designated representative and/or contracting agents of the SIR are expressly authorized to enter upon private property for such purpose, and it is unlawful for any Person to interfere, hinder, or refuse to allow them to enter upon said property for such purpose and to destroy or remove weeds or rubbish in accordance with the provisions of this chapter. Any Person, occupying, renting, managing, or leasing Lands of the Susanville Indian Rancheria shall have the right to destroy or remove weeds or rubbish or have the same destroyed or removed at his or her own expense at any time prior to the arrival of the Tribe's authorized representative for such purpose.
4. The SIR Fiscal Department shall keep an account of the cost to the Tribe to destroy or remove weeds or rubbish as aforesaid for each separate lot or parcel of land and the portions of streets adjoining the same, and shall embody such account in a report and assessment list to the Tribal Secretary/Treasurer, who shall present such report and assessment list to the Tribal Business Council. Such report shall refer to each separate lot or parcel of land by description sufficient to identify the same, together with the expense proposed to be assessed against it. The cost of abatement may include incidental expenses, including, but not limited to, the expenses and costs to the Tribe in the inspection of lots, preparations of notices, specifications and contracts, and in inspecting work, the cost of printing and mailing required under this ordinance in an amount to be set by resolution of the Tribal Business Council, per each occurrence of abatement.
5. The NRD shall post a copy of such report and assessment list on a bulletin board at the LIHC, Tribal Resource Center, SIRHA Office, and Tribal Office, together with the notice of the filing thereof, and the time and place where and when it will be submitted to the Tribal Business Council for hearing and confirmation.

B) Initiate direct enforcement action and recovery of disposal costs when appropriate as follows:

Impose a monetary fine not to exceed \$50.00 for the first solid waste dumping violation and \$75.00 for each subsequent violation.

Unless the Person is subject to an assessment under Section K.4 of this ordinance, the Tribal Business Council shall provide him or her with a notice not less than ten (10) days in advance of the date, time and location of a hearing at which he or she may present any evidence or argument as to why he should not be held liable for costs and fines authorized by this ordinance.

Every Person receiving any service designated in this ordinance shall be liable for the payment of said charges. In addition to the direct liability of the Person receiving such service, it shall be presumed that the occupant of any premises served is the agent of the tenant or assignee thereof, and is acting for and on behalf of the said tenant or assignee. Every service performed under this Section shall be presumed to be for the benefit of the premises from which solid waste is removed and the charges accruing for such service shall be charged against the property on which furnished and against the tenant or assignee thereof and shall be a special assessment against the property where furnished. No change of tenancy, assignment or occupation shall in any way effect the application of this Section.

Whereupon, the NRD shall be notified of the amount delinquent and unpaid, the amount of the penalty, collection costs and costs of abatement, by directing a letter to the owner of the land or primary resident at the address shown on the records of the tribe. Such notice shall further declare that the Tribal Business Council shall at its next regular meeting review and approve, as an assessment against the property, the amount delinquent and unpaid, the amount of the penalty, collection costs and costs of abatement. If the total assessment determined and approved by the Tribal Business Council is not paid within ten (10) days after such determination, then and in that event, there shall be filed with the department administering the premises, a statement of the total balance due together with the legal description of the property affected. From and after the date of such filing; the balance due shall be a special assessment against the real property. The assessment shall be collected at the same time and in the same manner as rent or occupancy fees and shall be subject to the same penalties and to the same procedure in case of delinquency as provided for ordinary rent or fees.

Nothing in this ordinance shall be deemed to prohibit the removal and hauling to an approved site by an unlicensed Person of materials considered by the NRD or the Tribal Business Council to constitute a health or safety menace of such nature as necessary to be ordered to be promptly removed.

In the event that any interested Person deems himself injured by any determination of the Tribal Business Council or has a complaint arising from or concerning the administration or enforcement of this ordinance, such Person may appeal in writing to the Tribal Business Council. The Tribal Business Council shall hold a public hearing within ten (10) days of receipt of the written appeal; notice of said hearing to be given to the complaining party.

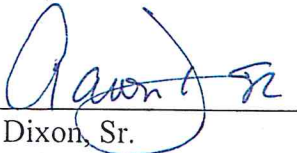
L. AMENDMENTS

This ordinance may be amended by a simple majority vote of the Tribal Business Council. Should any section, paragraph, sentence, or clause of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.

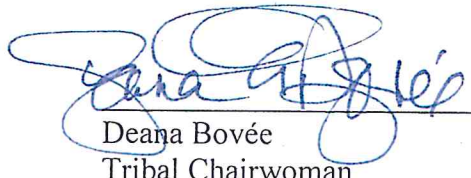
CERTIFICATION

We, hereby certify that the Solid Waste Ordinance No. 2004-002, Amendment 1 was adopted by the Susanville Indian Rancheria Tribal Business Council at a duly called meeting held September 19, 2017 with a vote of 5 for, 0 against, 0 abstain.

ATTEST;



Aaron Dixon, Sr.
Secretary/Treasurer



Deana Bovée
Tribal Chairwoman

