



SUSANVILLE INDIAN RANCHERIA

SOLID WASTE ORDINANCE

Ordinance No. 2004 - 002

ARTICLE I. STATEMENT OF FINDINGS

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

Section 1.1 – The **SIR** desires to ensure the health and well being of all people on the **SIR** as designated in the tribal constitution, residents and visitors alike.

Section 1.2 – The **SIR** recognizes the need to promote standards which will protect the tribal lands of the **SIR**.

Section 1.3 – It is important to preserve and secure the health, comfort, welfare, and safety of the general public by regulating the uncontrolled disposal of illegal dumping of solid waste within the **SIR**.

Section 1.4 – The failure to properly store and dispose of solid waste which is produced by persons living on the lands of the Susanville Indian Rancheria creates a public nuisance which can produce odor, an attractive nuisance, pests, rodents and disease.

ARTICLE II. DECLARATION OF PURPOSE

It is the purpose of the **SIR** Solid Waste Ordinance to prevent the unregulated accumulation of solid waste, to prevent the improper disposal of solid waste on lands of the Susanville Indian Rancheria and to require the proper and timely transportation of disposal of solid waste for the protection of the general welfare of tribal members and families residing on the Rancheria.

ARTICLE III. DEFINITIONS

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

- ❖ **Approved Site** – a site permitted and approved by the **SIR** as a site for disposal of solid waste.
- ❖ **EPD** – the tribal Environmental Protection Department and its administrative head.
- ❖ **Lands of the Susanville Indian Rancheria** – any land owned by the **SIR**, any land held in trust for the **SIR** by the United States of America, and any land within the boundaries of the Susanville Indian Rancheria.
- ❖ **Permitted Contractor** – a person who has a valid permit from the **SIR** to collect and transport solid waste.
- ❖ **Person** – any public or private corporation, company, partnership, firm, association or society of persons, or entity, including governmental entities, as well as a natural person.
- ❖ **Solid Waste** – all putrid and non-recyclable solid and semi-solid wastes, including any garbage, trash, rubbish, sludge, ashes, dead animals, abandoned vehicles, infectious wastes, hazardous wastes, manure, street and parking lot cleaning residues, industrial wastes, and other waste material, but not including domestic sewage.

ARTICLE IV. APPLICABILITY

Section 4.1 – The Solid Waste Ordinance shall be applicable to any person generating, producing, or storing, or permitting the storage of solid waste on lands of the Susanville Indian Rancheria. Any person who has generated or received any solid waste shall be responsible for the proper storage, removal, transport and disposal of such solid waste. Solid waste, while being transported, shall be covered, tied or otherwise secured so waste will not be blown or dropped from the transport.

Section 4.2 – In addition to other persons who may be responsible as set forth in this Ordinance, a person generating solid waste is responsible for the lawful storage, removal, transport and disposal of that solid waste until it is legally deposited in an Approved Site.

Section 4.4 – When solid waste is dumped or deposited in violation of this ordinance and three or more items in the solid waste identify the same person 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.

Section 4.5 – Any person who by contract, agreement or otherwise arranges for the recovery, transport, disposal or dumping of solid waste is responsible for complying with the provisions of this ordinance regarding that solid waste.

ARTICLE V. UNLAWFUL STORAGE AND DISPOSAL OF SOLID WASTE

Section 5.1 – It shall be unlawful and constitute a violation of this Ordinance for any person to deposit, dump or accumulate or to permit, cause or suffer any solid 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.

Section 5.2 - It shall be unlawful on the lands of the Susanville Indian Rancheria for any person to deposit solid 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.

Section 5.3 - 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 approved by the TBC. Each of said receptacles 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 the TBC, 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 seventy (70) pounds without the approval of the TBC.

Section 5.4 - 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.

Section 5.5 – No garbage or rubbish or other refuse shall be removed and carried on and along the streets and alleys of the SIR except that the same be carried, conveyed or hauled in conveyances so constructed as not to permit matter to blow, sift through or fail therefrom upon said streets and alleys. The contents of such conveyance must be covered so as to prevent the same from falling to or being blown upon the streets, alleys and adjacent lands.

ARTICLE VI. RECOVERY OF DISPOSAL COSTS

Section 6.1 – If a person violates this ordinance and the SIR arranges for or executes the lawful disposal of solid waste that person shall be liable to the SIR for all reasonable costs and expenses associated with transportation and disposal of that solid waste.

Section 6.2 – EPD will report to the **TBC** any violations of this Ordinance. Upon receipt of the report and a determination of probable cause to believe such violation has occurred, the **TBC** shall direct the issuance of a 7-day 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.

Section 6.3 – If the solid waste is not removed in accordance with the requirements of this Ordinance within said seven (7) days, and the **TBC** determines after consideration of evidence or argument submitted by the person alleged to be in violation of this Ordinance, that the 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 Article VII of this Ordinance.

Section 6.4 – If the person identified as being responsible for the solid waste is a non-tribal member, the **TBC** can notify the Director of Community Development and the Lassen County Code Enforcement Officer under chapter 1.19 of the County of Lassen Ordinance Code. (**Appendix B**)

ARTICLE VII. ENFORCEMENT

Section 7.1 - It shall be the duty of a Permitted Contractor when directed by the **EPD** or the **TBC** 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 assignee of the premises, and the person who disposed or accumulated the solid waste. The cost shall be the joint and several liability of both.

Section 7.2 - The **EPD** 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 contractor.

Section 7.3 – The **EPD** shall advise the **TBC** on a monthly basis as to possible violations of this Ordinance. The **TBC** 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 **TBC**, the **TBC** shall, at its option, proceed as follows:

- A) Initiate the abatement and removal of solid waste.
- 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 7.4 of this Ordinance, the TBC shall provide him with a notice not less than 10 days in advance of the date, time and location of a hearing at which he may present any evidence or argument as to why he should not be held liable for costs and fines authorized by this Ordinance.

Section 7.4 - A. 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.

B. Between the first day of August and the first day of September of each year, the Permitted Contractor shall present to the TBC a list which sets forth a legal description of the real estate upon which the charges herein provided for have not been paid during the previous fiscal year (to wit, from the first day of July of the preceding year to the thirtieth day of June immediately preceding the presentation of the report), the amount of said charges, and the tenants or assignee thereof. Said list shall be verified by an oath of the contractor substantially in the following form, to wit:

STATE OF CALIFORNIA)

) ss.

COUNTY OF LASSEN)

I, the garbage contractor of the SIR do hereby swear that the attached list is a true and accurate list of the descriptions of real properties within lands of the Susanville Indian Rancheria, and tenants or assignees thereof, the occupancies of which are in default in the payment of garbage collection or removal charges for a period within the preceding fiscal year, to wit from July 1, 20_ to June 30, 20_. That the amounts in arrears and unpaid are set forth opposite each occupancy.

Contractor

Subscribed and sworn to before me this day of August, 19_.

(Notary Public)

C. Whereupon, the **EPD** shall immediately cause to be notified the concerned parties of the amount delinquent and unpaid, the amount of the penalty, collection costs and costs of abatement, by directing a letter to the tenant/assignee and/or occupant of the property at the address shown on the records of the Tribe. Such notice shall further declare that the **TBC** 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 **TBC** is not paid within ten (10) days after such determination, then and in that event, there shall be filed with the Susanville Indian Rancheria Housing Authority, Sierra Housing Program, or other tribal office or 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.

D. The contractor shall be fully reimbursed in the amount due him on an unpaid account less ten percent (10%) when the assessed amount is recovered.

Section 7.5 - 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 **EPD** or the **TBC** to constitute a health or safety menace of such nature as necessary to be ordered to be promptly removed.

Section 7.6 - In the event that any interested person deems himself injured by any determination of the **EDC** or has a complaint arising from or concerning the administration or enforcement of this Ordinance, such person may appeal in writing to the **TBC**. The **TBC** 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.

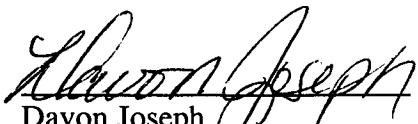
ARTICLE X. AMENDMENTS

This Ordinance may be amended by a simple majority vote of the **TBC**. 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, the undersigned duly elected officials of the Susanville Indian Rancheria hereby certify that on October 20, 2004, the foregoing Ordinance was adopted at a duly called meeting of the Tribal Business Council with a quorum present by a vote of 7 for, 0 against, 0 abstaining, and 0 absent.

ATTEST;



Davon Joseph
Secretary/Treasurer



Stacy Dixon
Tribal Chairman