

**RINCON BAND OF LUISEÑO INDIANS  
RINCON INDIAN RESERVATION, CALIFORNIA**



**RINCON PEACE AND SECURITY ORDINANCE  
RINCON TRIBAL CODE §15.200**

**Adopted on March 27, 2008**

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

**TABLE OF CONTENTS**

**§15.200** **PURPOSE AND INTENT**..... 1

**§15.201** **AUTHORITY**..... 1

**§15.202** **APPLICABILITY TO NON-INDIAN ACTIVITIES ON NON-INDIAN OWNED FEE LANDS WITHIN THE RESERVATION** ..... 1

**§15.203** **APPLICABILITY TO NON-INDIAN ACTIVITIES ON TRIBAL LANDS WITHIN THE RESERVATION** ..... 2

**§15.204** **LIBERAL CONSTRUCTION**..... 3

**§15.205** **DEFINITIONS**..... 4

**§15.206** **CIVIL INFRACTIONS AGAINST PROPERTY**..... 12

**§15.207** **CIVIL INFRACTIONS AGAINST THE PEACE**..... 15

**§15.208** **CIVIL INFRACTIONS AGAINST THE TRIBAL GOVERNMENT** ... 18

**§15.209** **CIVIL INFRACTIONS AGAINST PERSONS AND ANIMALS**..... 18

**§15.210** **CIVIL INFRACTIONS AGAINST MINORS AND PERSONS UNDER THE AGE OF 21**..... 20

**§15.211** **DRUG AND ALCOHOL CIVIL INFRACTIONS** ..... 20

**§15.212** **CIVIL INFRACTIONS AGAINST HEALTH AND SAFETY** ..... 21

**§15.213** **PROHIBITION OF LARGE PARTIES & GATHERINGS** ..... 27

**§15.214** **ENFORCEMENT**..... 28

**§15.215** **HEARING PROCEDURES AND PENALTY**..... 31

**§15.216** **GENERAL PROVISIONS**..... 36

**APPENDIX A** **Schedule of Fines for Rincon Peace and Security Code Violations** .. 37

Amended August 21, 2012  
 Amended March 2, 2017 by Resolution 2017-11  
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RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

**§15.200** **PURPOSE AND INTENT**

The Rincon Band of Luiseño Indians, also known as the “Tribe,” is a sovereign Indian tribal government. The Rincon Band of Luiseño Indians, in order to protect the health, safety, and general welfare of its members, residents, and guests, exercises regulatory authority over all lands within the exterior boundaries of the Rincon Reservation. The purpose of this law is protect the peace and security of all Band Members, guests of and visitors to the Rincon Reservation from and against harassment, vandalism, disruption of the peace and other antisocial acts, both in public and in private.

**§15.201** **AUTHORITY**

The Rincon Tribal Council, pursuant to the Articles of Association Section 6, (b) and (c) is vested with the authority to enact ordinances protecting the health, safety, and general welfare of Band Members and non-Indians who are visitors, guests or reside on the Rincon Reservation, as well as, to protect the natural resources of the Rincon Reservation.

**§15.202** **APPLICABILITY TO NON-INDIAN ACTIVITIES ON NON-INDIAN OWNED FEE LANDS WITHIN THE RESERVATION**

Applicability of this Ordinance to non-Indian activities occurring on non-Indian owned fee lands located within the exterior boundaries of the Rincon Reservation.

(a) In *Montana v. United States*, 450 U.S. 544 (1981), the Supreme Court held that tribes generally do not have jurisdiction over non-Indian activities occurring on reservation fee lands, subject to two important exceptions:

- (1) A tribe may regulate the activities of non-members who enter consensual relationships with the tribe or its members, through commercial dealings, contracts, leases, or other arrangements; and
- (2) A tribe may also retain inherent power to exercise civil authority over conduct that threatens or has some direct effect on the political integrity, the economic security or the health and welfare of the tribe.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(b) Prior to applying this Ordinance to non-Indian activities occurring on fee lands located within the Rincon Reservation, the Tribal Administration Enforcement Officer must first determine that the non-Indian activities seeking to be regulated fall within one of the exceptions set forth in Section 15.202(a).

- (1) The Tribal Administration Enforcement Officer shall include a written determination under Section 15.202(a) within any Notice of Violation in which non-Indian activities occurring on fee lands located within the Rincon Reservation are the basis for the violation.
- (2) The recipient of any such Notice of Violation shall be entitled to a preliminary jurisdictional hearing before the Rincon Tribal Court.
- (3) If the recipient objects to tribal jurisdiction and requests a jurisdictional hearing, the burden shall be on the Tribe to establish tribal jurisdiction pursuant to federal common law.

**§15.203    APPLICABILITY TO NON-INDIAN ACTIVITIES ON TRIBAL LANDS WITHIN THE RESERVATION**

Applicability of this Ordinance to non-Indian activities occurring on tribal lands located within the exterior boundaries of the Rincon Reservation.

(a) In *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983) and *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982), the Supreme Court held that tribes have inherent sovereign power to exclude nonmembers from tribal lands, including the lesser power to place conditions on their re-entry and continued presence through civil regulation of the nonmember activities, subject to one exception:

- (1) A tribe may not regulate the activities of non-members where there is a competing state interest and the exercise of tribal authority is not essential to protect tribal self-government and to control internal relations.

(b) Prior to applying this Ordinance to non-Indian activities occurring on tribal lands located within the Rincon Reservation, the Tribal Administration Enforcement Officer must first determine that the non-Indian activities to be regulated fall outside of the exception set forth in Section 15.203(a)(1).

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (1) The Tribal Administration Enforcement Officer shall include a written determination under Section 15.203(a)(1) within any Notice of Violation in which non-Indian activities occurring on tribal lands located within the Rincon Reservation are the basis for the violation.
- (2) The recipient of any such Notice of Violation shall be entitled to a preliminary jurisdictional hearing before the Rincon Tribal Court.
- (3) If the recipient objects to tribal jurisdiction and requests a jurisdictional hearing, the burden shall be on the Tribe to establish tribal jurisdiction pursuant to federal common law.

**§15.204 LIBERAL CONSTRUCTION**

This Ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. Furthermore, the Ordinance shall be interpreted and construed to:

- (a) Preserve the peace, harmony, safety, health and general welfare of the people of the Tribe and those permitted to enter or reside on the Reservation;
- (b) Ensure peace and order on the Rincon Reservation;
- (c) Promote the welfare of the Tribe and its members;
- (d) Safeguard individual rights and community standards;
- (e) Secure rights and powers, which are inherent in the Tribe's sovereign status;
- (f) Exert jurisdiction over all matters essential to the Tribe's self-determination and self-governance;
- (g) Treat all parties fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.* and by the traditions, customs and laws of the Tribe; and
- (h) Resolve disputes fairly and efficiently.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

**§15.205** **DEFINITIONS**

For the purposes of this Ordinance, the following definitions shall apply:

(a) “**Adult Tribal Member**” means any tribal member of the Rincon Indian Reservation who is 18 years of age or older, for the purpose of this Ordinance.

(b) “**Alter**” shall mean 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.

(c) “**Articles of Association**” means that certain organizational document setting forth rules of procedure to govern the operations and recognize the governing body of the Tribe, adopted by the General Membership on February 14, 1960, and approved by the Commissioner of Indian Affairs on March 15, 1960.

(d) “**Business Committee**” means the five (5) member Business Committee established under Section 3(a) of the Articles of Association. “Business Committee” shall be synonymous with “Tribal Council” or “Rincon Tribal Council” as may be used in this Ordinance or any existing or future Tribal Ordinance.

(e) “**Bodily injury**” means a cut, abrasion, bruise, burn, physical pain, causing illness, impairment of a function of a bodily organ, or mental faculties and/or any other injury to the body, no matter how temporary.

(f) “**Breach of the peace**” means conduct destroying or menacing public order and tranquility and may include acts of violence or acts or words likely to produce violence as well as acts or conduct that threaten the public peace.

(g) “**Civil infraction**” means a violation of Tribal law as set forth in this Ordinance.

(h) “**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.

(i) “**Criminal street gang**” means an ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

activities the commission of one or more criminal acts set forth in either Tribal, federal or state law.

(j) “**Damage**” means loss, injury, or deterioration to property causing it to decrease in strength, value, amount or quality.

(k) “**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. The terms include a devise or a drug that bears or is required to bear the legend: [ ] Caution: Federal law prohibits dispensing without a prescription; or [ ] Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(l) “**Dangerous weapon**” means any weapon, devise, 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 (for example, clubs, brass knuckles).

(m) “**Deface**” means damage to monuments, buildings or other structures by changing the physical appearance.

(n) “**Destroy**” means to ruin the structure, organic existence or condition of a thing or property, to demolish to injure or mutilate beyond possibility of use.

(o) “**Dumping**” as used in this Ordinance means the open disposal, depositing, burying, or non-permitted burning of any Waste Matter, including but not limited to the discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse construction and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, fence wire and all other items and materials defined as “Waste Matter” below, and the discarding of any vehicles which do not have value beyond scrap value and which are inoperable and unlicensed or which are considered abandoned due to the surrounding conditions.

(p) “**Dispose**” or “**Disposal**” as used in this Ordinance means to abandon, discharge, deposit, inject, dump, spill, leak, or place any substance into or on any land or water or so that such substances or any constituent thereof may enter the environment. The placement of biodegradable material in a properly maintained compost pile is not disposal of Waste Matter.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(q) “**Equipment**” means implements of husbandry, a farm tractor or trailer of any kind that is used for agricultural purposes, that is less than 50 years old.

(r) “**Felt Tip Marker**” means any broad-tipped marker pen with a tip exceeding three-eighths of one inch in width, or any similar implement containing an ick that is not water soluble.

(s) “**Financial loss**” means a loss of money or of something by which money or of value may be acquired.

(t) “**Firearm**” means any devise designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion.

(u) “**Fire hazard**” means any condition or conduct, as determined by Tribal Administration, the Fire Department, Law Enforcement, Environmental Protection Department or any federal agency, which: (a) increases or may increase the threat of fire as determined or extinguishing fire or (b) may obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

(v) “**General Membership**” means enrolled members who are twenty-one years (21) of age or older pursuant to Section 5 of the Articles of Association.

(w) “**Knowingly**” means a person who acts when he or her is aware that his or her conduct will necessarily or likely cause a particular result, that there is high probability that certain circumstances exist, or deliberately avoids learning the truth.

(x) “**Land Owner**” means any person in legal possession of land.

(y) “**Large Party**” means a party at which one hundred or more people are expected to attend and alcohol will be served.

(z) “**Litter**” means the willful and/or negligent throwing, placing, sweeping, dropping, or scattering of small quantities of Waste Matter left in a place other than a place or container for proper disposal. Litter also includes any Waste Matter that escapes or is allowed to escape from a container or receptacle by a person on public property, on private property not owned by the person, or in or on waters of the Reservation.



RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

**(aa)** “**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.

**(bb)** “**Marking Substance**” means any substance or implement, other than aerosol paint containers and Felt Tip Markers that could be used to draw, spray, paint, etch, or mark.

**(cc)** “**Minor**” means any person, Indian or non-Indian under 18 years of age.

**(dd)** “**Motor Vehicle**” or “**Vehicle**” shall include cars, any motorcycle, Off-Road Vehicles, trucks, pocket bike, motorized scooter, motorized skateboard, golf cart, motorized quad/tricycle, self-propelled wheelchair, electronic personal assistive mobility device, and all other forms of motorized transportation.

**(ee)** “**Natural Formations**” means trees, rocks, landscape formations and other items or features of cultural significance as determined by the Cultural Resources Director.

**(ff)** “**Narcotic Drug**” means any drug under the provision of Chapter 13, Title 21, Section 802, “Narcotic Drug” of the United States Code.

**(gg)** “**Off-Road Vehicle**” means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; but such term does not include:

- (A)** any registered motorboat at the option of each State;
- (B)** any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; and
- (C)** any vehicle the use of which is expressly authorized by the Secretary of the Interior or the Secretary of Agriculture under a permit, lease, license, or contract.

**(hh)** “**Ordinance**” means this Rincon Government Ordinance, as amended from time to time.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(ii) **“Permit”** means any regulatory permit mandated and issued by and through the Tribal Government.

(jj) **“Person”** means any individual, group, corporation, firm, partnership, joint venture, association, social club, estate, trust, or similar such entity, or a governmental entity, unit, or agency, whether Tribal, local, State, or Federal.

(kk) **“Petitioner”** means the Person who submits a Request for Hearing to the Rincon Tribal Court pursuant to § 15.215 of this Ordinance.

(ll) **“Private Property”** means any tangible personal property and real property such as land or structures and buildings affixed to land, whether owned in trust by the United States for the benefit of the Tribe, owned in fee by the Tribe or any Person, allotments where title is held in the name of the United States for the benefit of an individual Indian, or assignments of tribal trust land issued to tribal members and permitted successors-in-interest, or lands otherwise tribally-controlled or owned pursuant to 18 U.S.C.§1151.

(mm) **“Probable Cause”** means the existence of trustworthy facts or knowledge sufficient for a reasonable Person to believe that an infraction pursuant to this Ordinance has been committed.

(nn) **“Property”** means both tangible personal property and real property such as land or structures and buildings affixed to land, whether owned in trust by the United States for the benefit of the Tribe, owned in fee by the Tribe or any Person, allotments where title is held in the name of the United States for the benefit of an individual Indian, or assignments of tribal trust land issued to tribal members and permitted successors-in-interest, or lands otherwise tribally-controlled or owned pursuant to 18 U.S.C.§1151.

(oo) **“Public Safety Post”** means a post erected on Private Property by a Tribal Administration Enforcement Officer to identify the physical address of a residence for emergency response purposes.

(pp) **“Reasonable Suspicion”** means the quantum of knowledge that leads a prudent Tribal Administration Enforcement Officer to believe, supported by articulable

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

facts, that a civil infraction will be or has been committed in violation of or pursuant to this Ordinance.

**(qq) “Recklessly”** means a Person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him/her.

**(rr) “Request for Hearing”** means the portion of the civil citation completed by a Petitioner to request a hearing in the Rincon Tribal Court pursuant to § 15.215 of this Ordinance.

**(ss) “Reservation”** means all lands within the boundaries of the Rincon Reservation, including, but not limited to:

(1) all lands within the territorial boundaries of the Rincon Indian Reservation as established by the Executive Order of the President issued on March 2, 1881, the Mission Indian Relief Act, 26 Stat. 712 (1891), the trust patent issued by the President on September 13, 1892, the Act of Congress of August 16, 1941, 55 Stat. 622, the February 12, 1968 Order setting aside land for the Rincon Band and the trust patent issued on January 20, 1971, which established and added to the Rincon Reservation, and any fee land acquired in trust pursuant to 25 U.S.C. 461 and its implementing regulations, and such other lands as may thereafter be added thereto or made a part thereof; and

(2) all other trust, restricted, or tribally owned lands, regardless of whether they have been formally added to or made part of the Rincon Reservation.

**(tt) “Serious Bodily Injury”** means bodily injury, which involves substantial risk of death, extreme physical pain or disfigurement, protracted loss or impairment of the function of a bodily organ, or mental faculties.

**(uu) “Schedule of Fines”** means the minimum monetary penalties assigned to civil infractions described in this Ordinance.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(vv) **“Solid Waste”** as used in this Ordinance means any yard waste, garbage, refuse, rubbish, sludge or other discarded or disposed materials, including solid, liquid or semi-solid, or contained gaseous material resulting from any operation, activity, or source.

(ww) **“Tribal Administration Enforcement Officer”** means the Tribal Administration official(s), including the Fire Department, Tribal Law Enforcement, Housing Department, Environmental Protection Department, Public Works and others designated by the Tribal Council to enforce this Ordinance and authorized to act for the Band.

(xx) **“Tribal Council”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. “Tribal Council” shall be synonymous with “Business Committee” or “Rincon Business Committee” as used in this Ordinance or any existing or future Tribal Ordinance.

(yy) **“Tribal Court”** means the Intertribal Court of Southern California or other tribal forum designated by the Tribal Council to hear and decide violations of Tribal Law.

(zz) **“Tribal Government”** means the administrative and executive arms of the Tribe, its departments, committees, political subdivisions, agencies and enterprises.

(aaa) **“Tribal Law”** means laws, Ordinances, policies and procedures enacted by the Tribal Council.

(bbb) **“Tribal Law Enforcement”** means the department of the Tribe authorized to enforce some or all parts of this Ordinance.

(ccc) **“Tribal Law Enforcement Officer”** means a Person designated by the Band and authorized to enforce this Ordinance and act as a law enforcement, or peace, officer for the Band on the Reservation.

(ddd) **“Tribal Member”** means an enrolled member of the Tribe.

(eee) **“Tribal Property”** means all tangible personal property and real property such as land or structures and buildings affixed to land, whether owned in trust by the United States for the benefit of the Tribe, owned in fee by the Tribe or lands otherwise tribally-controlled or owned pursuant to 18 U.S.C. §1151.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(fff) “**Tribally Approved Function**” means a social, governmental, educational or cultural event on the Reservation that has been approved by Tribal Administration or the Business Committee.

(ggg) “**Tribe**” means the Rincon Band of Luiseno Indians of the Rincon Reservation, Valley Center, California, and the agencies, entities, arms and enterprises of the Tribe, as appropriate, either together or separately. “Tribe” means the same as “Band”.

(hhh) “**Waste Matter**” means a discarded, used, or leftover substance, including but not limited to any garbage, trash, refuse, solid waste, paper, packaging, construction material, carcass of a dead animal, nauseous or offensive matter of any kind, abandoned automobiles, automobile parts, furniture, cigarette, cigar, match, flaming or glowing material, or any object likely to injure a Person or create a traffic hazard, and includes the following categories:

- (1) “**Combustible Rubbish**” means paper, rags, discarded household bedding, packing materials, cartons, boxes, containers, grass, plants, shrubs, trees, vines, and the pruning thereof, shavings, sawdust, chips, lumber scraps or other chapters from lumberyards, mills or factories and all other waste which will burn upon contact with flames of ordinary temperature.
- (2) “**Construction and Demolition Debris**” means dirt, sweepings, bricks, mortar, plaster and other building and construction materials, whether combustible or noncombustible, resulting from the repair, remodeling, demolition or construction of buildings, or other structures.
- (3) “**Garbage**” means any accumulation of animal, vegetable, fruit or other biodegradable materials resulting from the preparation, selling, serving or consumption of edible foodstuffs, including the cans, containers or wrappers wasted along with such materials; or resulting from the dealing in, handling, processing, storage or decay of meats, fish, fowl, fruits, vegetables or grains; or the excrement, carcasses or residue of animals, fish or fowl; or other industrial, commercial or domestic organic solid wastes.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (4) “**Hazardous and Toxic Waste**” means any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant or a strong sensitizer which generates pressure through decomposition, heat or other means, and similarly hazardous waste materials, if such waste or mixture of wastes may cause substantial personal injury, serious illness, or harm to humans, water contamination, domestic animals or wild life during, or as a proximate result of, any disposal of such wastes as defined in Article 2, Chapter 2.5, Section 25117 of the California Health and Safety Code. The terms “toxic”, “corrosive”, “flammable”, “irritant” and “strong sensitizer” shall be given the same meaning as in the California Hazardous Substances Act, Chapter 4 of Division 104 of the California Health and Safety Code, commencing with Section 108100.
- (5) “**Miscellaneous and Bulky Debris**” means all garbage, rubbish and other discarded materials not otherwise provided for in the foregoing or following definitions of this Section 15.205(hhh), including, appliances, furniture, large auto parts, trees, branches, stumps, or amounts of garbage or rubbish collected at each collection in excess of the maximum amounts permitted by this Ordinance, and other wastes the size, weight, or volume of which precludes or complicates their handling by normal collection methods.
- (6) “**Noncombustible Rubbish**” means, among other things, ashes, bottles, broken glass, crockery, earthenware, metal cans, metal ware, wire products, discarded metal or stone, automobile tires, inner tubes, batteries and metal kegs, barrels or casks.

**§15.206 CIVIL INFRACTIONS AGAINST PROPERTY**

(a) **Malicious Mischief.** A Person commits the civil infraction of Malicious Mischief if he or she, without consent of the property owner or Tribe:

- (1) Damages or destroys property of another;

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (2) Tamper with property of another and causes financial loss or substantial inconvenience to the property owner or a third Person;
- (3) Possesses any kind of marking substance with the intent to commit vandalism or graffiti with:
  - (A) an aerosol paint container;
  - (B) a marking tool or substance that can be used to draw, spray, etch or mark; or
  - (C) a Felt Tip Marker with a tip exceeding 1 inch in width that is not water soluble.
- (4) Alters, defaces or damages Property of another, which may include a monument, structure or facility, place of worship or burial ground, Natural Formations, or any other property of another; or
- (5) Aids, assists, commands, or counsels another to commit Malicious Mischief.
- (6) A Person commits the civil infraction of Malicious Mischief if she or her possesses:
  - (A) An aerosol paint container, marking tool, a Felt Tip Marker, or any other marking substance with the intent to commit vandalism or graffiti.

(b) **Trespass.** A Person commits the civil infraction of Trespass if he or she enters or remains, or causes any object to enter or remain, on Tribal or private property of another and:

- (1) Had notice that the entry was forbidden;
- (2) Was ordered to depart after entry and failed to do so; or
- (3) Has been excluded from the Reservation by a Rincon Tribal Court order.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

**(A)** Notice or an order may be given by:

- (i)** Written or verbal communication given to the trespasser by a Tribal Administration Enforcement Officer or the owner of the property or Person authorized to act on behalf of the property owner;
- (ii)** Written notice posted on or about the property in a manner reasonably likely to come to the attention of any trespasser; or
- (iii)** Fences, barricades or other devices obviously designed to enclose the property and to exclude all potential intruders;
- (iv)** Written exclusion order issued by the Rincon Tribal Court.

- (4)** An infraction of Trespass if committed in a private dwelling, Tribal dwelling or where the trespasser carries a dangerous weapon or firearm on or about his or her person during the commission of the infraction of Trespass shall be subject to a tripling of the maximum fine as provided for pursuant to the Schedule of Fines.
- (5)** Attempts to sell or transact any sales of any goods or services on the Reservation without a Permit.

**(c) Nuisance & Public Nuisance.**

- (1)** A Person commits the civil infraction of Nuisance whenever conduct by a Person in the use of his or her own property substantially and unreasonably interferes with the use and enjoyment of property of another, and such interference would be considered offensive, inconvenient or annoying to the average Person in the community.
- (2)** A Person commits the civil infraction of Public Nuisance whenever conduct by a Person unreasonably interferes with the health, safety,



RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

or property rights of the community that causes damages to the public at large.

(A) A Person or Land Owner commits the civil infraction of Public Nuisance whenever conduct by a Person or Land Owner knowingly or recklessly damages, defaces, disposes, destroys, alters, moves or removes Public Safety Posts erected on Private Property within the Reservation.

(d) **Reckless Damage or Destruction.** A Person commits the civil infraction of Reckless Damage or Destruction if, without the consent of the property owner, he or she recklessly damages or destroys property of another.

(e) **Arson.** A Person commits the civil infraction of Arson when he or she intentionally sets fire to, or burns, or causes to be burned, or aids, counsels, or assists in the burning of the dwelling or property of another, including any trailer, Motor Vehicle, camper, structure, barn, stable, crops or open area of the Reservation, unless such burning has been expressly authorized in writing by a Tribal Administration Enforcement Officer.

**§15.207 CIVIL INFRACTIONS AGAINST THE PEACE**

(a) **Disorderly Conduct.** A Person commits the civil infraction of Disorderly Conduct if he or she:

- (1) Fights, challenges to fight, encourages or cheers for, aids, abets or video records, for purposes other than providing evidence of Disorderly Conduct, any other Person located on the Reservation;
- (2) Creates any excessive noise, or allows or permits the creation of any excessive noise on property owned, leased, occupied or otherwise controlled by such Person which causes or creates a Nuisance;
- (3) Brandishes a dangerous weapon or firearm in an offensive manner;
- (4) Abuses or threatens a Person in an obviously offensive manner;
- (5) Engages in lewd behavior and is reckless about whether other Persons present would be alarmed by his or her act; or

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (6) Uses abusive, indecent, profane, or vulgar language on Tribal property, and the language by its very utterance tends to incite a breach of the peace.
- (7) Discharges a firearm on the Reservation except by:
  - (A) Tribal Law Enforcement Officers acting in the scope of their authority and in the performance of their official duties;
  - (B) Any other state, federal or Tribal Law Enforcement Officer acting within the scope of their authority and in the performance of their official duties;
  - (C) Tribal members, during day light hours and within the boundaries of his or her property, but only if conducted in a reasonable manner without endangerment to other Persons or Property and without causing or creating a Nuisance;
  - (D) Tribal members at a shooting area officially designated by the Tribal Council.
- (8) Urinating or defecating in a public area on the Reservation. This section shall not apply to a Person who cannot comply with this section as a result of a disability, age, or a medical condition.

**(b) Possession of a Dangerous Weapon and/or Firearm.** A Person, other than state, federal or Tribal Law Enforcement Officer, commits the civil infraction of Possession of a Dangerous Weapon and/or Firearm if he or she carries on or about his or her Person a Dangerous Weapon and/or Firearm, as defined in this Ordinance.

- (1) Any Tribal Law Enforcement Officer may, upon Probable Cause, confiscate a Dangerous Weapon and/or a Firearm from any Person who violates this subsection 15.207(b).
- (2) Tribal members may possess firearms but only on their private property.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(c) **Loitering and Curfew.**

- (1) **Loitering.** A Person commits the civil infraction of Loitering whenever a Person is without a legitimate purpose, physically remains on, at or near Tribal Property, including buildings, facilities or businesses on the Reservation unless it is during a Tribally Approved Function.
- (2) **Curfew Law - Minors.** Between the hours of 10:00 p.m. and 6:00 a.m. every day of the week Minors shall be prohibited from remaining on Reservation streets or Tribal Property, unless supervised by a responsible adult.
- (3) **Violation of Curfew.** A Person commits the civil infraction of Violation of Curfew if:
  - (A) He or she is a Minor who remains on the streets or on Tribal Property between the hours of 10:00 p.m. and 6:00 a.m., unless it is during a Tribally Approved Function;
  - (B) He or she is a parent, guardian or custodian of a Minor and knowingly permits or by insufficient supervision and control allows the Minor to remain on any Reservation streets or Tribal Property between 10:00 p.m. and 6:00 a.m., unless it is during a Tribally Approved Function.
- (4) **Curfew Law - Enforcement.**
  - (A) **Curfew Law Violation Sanctions.** Any Minor found to have violated the Curfew Law shall be warned in writing on the first offense. For the second offense within six (6) months, the Minor shall be subject to any or all of the following sanctions: prohibited from participating in any or all sports activities run by the Tribe, including any use of Rincon recreational facilities for a minimum period of thirty (30) days. In addition, Minors will be required to perform

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

community service to be determined by the Tribal Law Director for a minimum of eight (8) hours per violation.

**§15.208** **CIVIL INFRACTIONS AGAINST THE TRIBAL GOVERNMENT**

(a) **Interfering with Lawful Duties.** A Person commits the civil infraction of Interfering with Lawful Duties if by force, violence or other means, he or she:

- (1) Interferes, obstructs or resists any Tribal Administration Enforcement Officer or federal, state or Tribal Law Enforcement Officer in the performance of their official duties;
- (2) Flees from any federal, state or Tribal Law Enforcement Officer who is attempting to lawfully carry out his or her duties.

(b) **Aiding, Abetting, and Harboring a Criminal or Excluded Person.** A Person commits the civil infraction of aiding, abetting and harboring a criminal or excluded Person whenever a Person aids, abets, or harbors a fugitive of Tribal, federal or state law, a Person excluded from the Reservation, or a member of a criminal street gang.

(c) **Non-Compliance with Tribal fines, penalties, regulations and fees.** A Person commits the civil infraction of non-compliance with Tribal Law or regulations whenever a Person does not:

- (1) timely pay fines or penalties for violations issued by the Tribal Government, or
- (2) follow regulatory Permit processes or timely pay regulatory fees set forth by the Tribal Government.

**§15.209** **CIVIL INFRACTIONS AGAINST PERSONS AND ANIMALS**

(a) **Battery.** A Person commits the civil infraction of Battery if he or she:

- (1) Causes Bodily Injury to another;
- (2) Causes Serious Bodily Injury to another;

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (3) Threatens another with imminent bodily or serious bodily injury;
- (4) Causes physical contact with another when the Person knows or should reasonably believe that the Person will regard the contact as offensive or provocative;
- (5) Uses or exhibits a weapon during the commission of a Battery; or
- (6) Forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any authorized Tribal Law Enforcement Officer or other law enforcement officer lawfully discharging an official duty.

**(b) Aggravated Battery.** A Person commits the civil infraction of Aggravated Battery whenever a Person uses or exhibits a weapon during the commission of a Battery pursuant to Section 15.209(a).

**(c) Cruelty to Animals.** A Person commits the civil infraction of Cruelty to Animals if he or she:

- (1) Physically mistreats an animal either by abuse or failure to furnish minimum care. Physical mistreatment of an animal shall include, but is not limited to, the killing, maiming, mutilating, beating, torturing, wounding, tormenting an animal and/or depriving an animal necessary sustenance, drink, food or shelter, or chaining or tying an animal in a confined area.
- (2) Animals may be impounded under § 15.209(c) of this Ordinance. The owner of the animal, or the Person in possession and control of the animal, shall be liable for all impounding costs and fees.

**(d) Animals at Large.** A Person commits the civil infraction of Animals at Large if he or she:

- (1) Permits an animal, other than a domestic cat, to be at large on the Reservation or not otherwise under the physical control of the animal owner or not physically contained on the animal owner's or

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

a Person's property or in the animal owner's or a Person's Motor Vehicle.

(e) Animals may be impounded pursuant to *Rincon Canine Control Ordinance*, RTC § 15.1000, and the owner of the animal, or the Person in possession or control of the animal, shall be liable for all impoundment costs and fees.

**§15.210 CIVIL INFRACTIONS AGAINST MINORS AND PERSONS UNDER THE AGE OF 21**

(a) **Furnishing Alcohol to Persons Under the Age of 21.** A Person commits the civil infraction of Furnishing Alcohol to a Person Under the Age of 21 when he or she gives, purchases for, or furnishes to any Person under the age of 21 any alcohol beverages, or Controlled Substances.

(b) **Distributing Tobacco Products to Minor.** It shall be a violation of this Ordinance to give, purchase for or furnish tobacco products to any Person under the age of 18.

**§15.211 DRUG AND ALCOHOL CIVIL INFRACTIONS**

(a) **Chemical Intoxication.** A Person commits the civil infraction of Chemical Intoxication if he or she:

- (1) Inhales, ingests, applies, uses, or possesses a substance containing a volatile chemical, abusable glue, aerosol paint or aerosol with the intent to affect the Person's central nervous system, create or induce a condition of intoxication, hallucination, or elation, change, distort, or disturb the Person's eyesight, thinking process, balance, or coordination.
- (2) Sells, offers for sale, delivers or furnishes to any Person under the age of 18 any volatile chemical, abusive glue or aerosol paint.

(b) **Possession or Consumption of Controlled Substances.** A Person commits a civil infraction of Possession or Consumption of Controlled Substances, if without a medical prescription and/or license, a Person grows, manufacturers or distributes, sells, or offers to sell a Controlled Substance or any paraphernalia in connection therewith.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(c) **Intoxication on Tribal Property.** A Person commits the civil infraction of 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, unless the intoxication is for therapeutic purposes and as part of the Person's professional medical treatment by a licensed physician.

**§15.212 CIVIL INFRACTIONS AGAINST HEALTH AND SAFETY**

(a) **Unlawful Operation of Motor Vehicle.** A Person commits the civil infraction of Unlawful Operation of Motor Vehicle when he or she:

- (1) Parks his or her Motor Vehicle on the street, curb or other area where parking is prohibited by posted signs not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone of Tribal Law Enforcement, or where the location of a parked Motor Vehicle otherwise prohibits the safe passage of two vehicles on the street or road on the Reservation.
  - (A) If a sign prohibiting parking indicates that a citation may also be issued, the vehicle shall be towed once 24 hours have elapsed since the issuance of the citation. This 24-hour requirement shall not apply to vehicles parked in a commercial location where parking obstructs or interferes with day-to-day business operations of the Tribe;
- (2) Operates any Motor Vehicle on any street or road within the Reservation in willful disregard for the safety of Persons or property;
- (3) Operates any Motor Vehicle in excess of any other posted speed limit on any road on the Reservation. The speed limit on all un-posted roads is 35 m.p.h.;

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (4) Operates a Motor Vehicle, as defined under Section 15.204, anywhere on the Reservation in a manner which disturbs the peace of other Reservation residents;
- (5) Operates an Off-Road Vehicle (“ORV”) anywhere on the Reservation between the hours of 10:00 p.m. and 6:00 a.m.
- (6) Operates a motorcycle or ORV anywhere on the Reservation without a spark arrester and muffler;
- (7) Operates a motorcycle or ORV without a helmet, unless the ORV is equipped with a seatbelt and is worn by the operator; or
- (8) Operates a Motor Vehicle in any restricted and/or posted area (i.e., riverbed).

**(b) Authority to Store Motor Vehicles or Equipment.**

- (1) A Rincon Tribal Law Enforcement Officer may authorize removal and storage of a Motor Vehicle located within the Rincon Reservation under the following circumstances:
  - (A) When a vehicle is left parked or left standing upon any tribal road in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the roadway.
  - (B) When a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the roadway.
  - (C) When a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impractical to move the vehicle from in front of the fire hydrant to another point.



RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (D)** When a vehicle is left parked or standing upon any tribal property that is “Restricted and/or posted areas for “Authorized Vehicle Use Only.”
- (E)** When more than one Motor Vehicle or piece of Equipment is left on tribal property or residential property that is visible to the public for more than 30 days, and is non-operational because it:
  - (i)** lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on a road way; or
  - (ii)** leaks hazardous or toxic fluid onto the ground; or
  - (iii)** is severely rusted; or
  - (iv)** is not registered with the California Department of Motor Vehicles.
- (F)** When a vehicle is illegally parked on a road or other tribal property in violation of a temporary ban forbidding the standing or parking and the use of a road way or tribal property is necessary for the cleaning, repair, or construction of the road way, or for the installation of underground utilities, or any Special Tribal Event, and signs giving notice that vehicle may be removed are erected or placed at least 24 hours prior to the removal by Tribal Law Enforcement.
- (G)** When a vehicle is parked or left standing in a location where Tribal Council, whether by resolution or ordinance, prohibits parking and authorizes the removal of vehicles.
- (H)** When a vehicle is parked on a roadway for 72 hours in front of the same address on the same side of the street.
  - (i)** Moving the vehicle forward or backward in front of the same address on the same side of the street does not

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

avoid violation of this section and the vehicle is still subject to tow.

- (ii) Spiderwebs connecting the vehicle to the roadway may be considered a reason to tow a vehicle under section (H).

(2) When a Person operates any vehicle in violation of:

- (A) Subsection 15.212(a) in willful disregard for safety of Persons or property on the Reservation, or
- (B) Subsection 15.212(a)(8) in any restricted and/or posted area, and
- (C) at the time of the offense is being issued a civil citation by a Rincon Tribal Law Enforcement Officer.

(c) **Unlawful Dumping Activities.** It shall be a violation of this Ordinance:

- (1) For any Person to dump, place, deposit, store, or accumulate any Waste Matter within the boundaries of the Reservation in a manner that is harmful to the public health and safety, as determined by a Tribal Administration Enforcement Officer or any federal agency in the discharge of a trust obligation on the Reservation.
- (2) For any Person to dump or cause to be dumped any waste matter within the Reservation in or upon any:
  - (A) Public or private highway or road;
  - (B) Private property into or upon which the public is admitted by easement or license;
  - (C) Private property, without the consent of the owner; or
  - (D) Public park or other public property, other than property designated or set aside for that purpose by the Business Committee.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (3) For any Person, regardless of intent, to litter or deposit waste matter or cause litter or waste matter to be deposited on any public property, on private property not owned by him or her, or in or on waters of the Reservation unless:
- (A) The Person is directed to do so by the Tribal Chairperson or officially designated representative of the Tribe as part of a litter collection drive; or
  - (B) The Person deposits the litter or waste matter in a solid waste receptacle in a lawful manner that prevents it being carried away by the elements.
- (4) For any Person to place any solid waste in a dumpster, garbage can, or other solid waste container belonging to another Person without the permission of the receptacle owner legally entitled to own and use said dumpster, garbage can, or other solid waste container.
- (5) For any Person to place, leave, dump, or permit the accumulation of unused, large bulky debris, such as white goods (refrigerators, stoves, etc.) or inoperable cars or trucks or parts thereof, in any open and visible location on the Reservation.
- (6) For any Person to knowingly allow the carcass of any dead animal that belonged to him or her at the time of its death to be put, or to remain, within 100 feet of any street, alley, public highway, or road in common use.
- (7) For any Person to enter the Reservation for the purpose of dumping or disposing of solid waste.
- (8) For any Person to operate a landfill or solid waste disposal site or operate a solid waste collection system.
- (9) For any Person to generate, store, transfer, transport, treat, discharge, release, or dispose of hazardous waste through the conduct of any business on the Reservation.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

(10) For any Person to conduct open burning of any solid wastes on the Reservation, except as permitted pursuant to Tribal Law.

(11) For any Person to transport solid waste and waste matter unless, while being transported, the solid waste and waste matter is covered, tied, or otherwise secured so that solid waste and waste matter will not be blown or dropped from the transport vehicle.

**(d) Exceptions.** This Ordinance shall not be construed to restrict a Tribal member's use of his or her property whether an assignment or allotment, unless:

(1) The placing, depositing or storing of such Waste matter on such property creates a public health and safety hazard, a Nuisance or Public Nuisance, or a Fire Hazard, as determined by Tribal Administration Enforcement Officer charged with the protecting the health, safety and welfare of the tribal community; and

(2) The Tribal member continues to place, deposit, or store the Waste matter after the date specified for removal by the citing officer set forth in the written removal notice from a Tribal Administration Enforcement Officer charged with the protecting the health, safety and welfare of the tribal community.

(e) This Ordinance shall not be construed to prohibit a farmer or rancher from disposing solid waste resulting from normal farming operations upon his or own property; provided, however, that such disposal does not create a public health and safety hazard, a Nuisance or Public Nuisance, or a Fire hazard, and does not otherwise violate any Tribal law.

**(f) Unlawful Use of Recreational Vehicles and Camping Tents.** It shall be a violation of this Ordinance to use a recreational vehicle or camping tent for human habitation, unless:

(1) Upon demand by Tribal Law Enforcement, the Land Owner provides written proof of consent to use and maintain the recreational vehicle or camping tent on the property;

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (2) The recreational vehicle or camping tent cannot be maintained on the property for more than 7 days from the date of Land Owner consent and not more than once per year;
- (3) The Person(s) residing in the recreational vehicle or camping tent must be guests of the Land Owner; and
- (4) The recreational vehicle must be operable, in good condition and not in disrepair; the camping tent must be in good condition and not in disrepair.

**(g) Authority to Impound and Tow.** Recreational vehicles and camping tents unlawfully used for human habitation in violation of §15.212(f) of this Ordinance are subject to impoundment, towing and monetary penalties pursuant to the Schedule of Fines.

**§15.213 PROHIBITION OF LARGE PARTIES & GATHERINGS**

Unless expressly authorized in writing by the Tribal Administrator, any Large Party, gathering, event or loud and unruly assemblages on the Rincon Reservation are strictly forbidden and may result in monetary sanctions for violations of this Ordinance.

**(a) Evidence of a Large Party.** A written description of the event shall be prima facie evidence that a Large Party took place.

**(b) Joint and Several Liability for a Large Party.**

- (1) **Cost Liability.** In addition to monetary penalties for violations of this Ordinance pursuant to Section 15.213, when a Large Party, gathering, event or loud and unruly assemblage occurs or is held that results in a disruption to the peace, health, safety or general welfare of the Rincon Band members and/or Rincon Reservation, the Persons in-charge of the premises and/or the Persons responsible for the Large Party, or if either of those Persons is a minor, then the parents or guardians of the minor, will be held jointly and severally liable for monetary penalties and the costs of providing law enforcement and first responder personnel to restore the peace, health, safety and general welfare of the Rincon Band and/or the Rincon Reservation.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (2) **First Responder Cost Calculation.** In addition to monetary penalties for violations this Ordinance pursuant to Section 15.213, Persons in-charge of the premises and/or responsible for the Large Party shall be liable for each and every instance of response by law enforcement or first responders, which costs shall include costs of personnel, equipment, contractual costs, damages to tribal property and/or injuries to tribal or county personnel. The charges assessed will be the actual cost of service for controlling the disturbance and restoring the public peace, health, safety or general welfare at the location of the disturbance on the Rincon Reservation and shall be the greater of the current rate being charged to the Rincon Band by the city or county sheriff's department, pursuant to any mutual aid agreement or contract, or the reimbursable hourly rate of personnel and equipment costs charged by the Rincon Band of delivery of mutual aid services to other governments.
- (3) In addition to subsections (b)(1) and (b)(2), Persons in-charge of the premises and/or responsible for the Large Party shall be liable for damages to tribal or public property on the Rincon Reservation, the amount of which shall be determined by an official written estimate from the Rincon Band Department of General Services.

**§15.214 ENFORCEMENT**

(a) **Civil Citation.** A Tribal Law Enforcement Officer has the authority to issue a civil citation to any Person, at any time within thirty (30) days from the date a violation of this Ordinance occurred, if:

- (1) The infraction occurs in the presence of a Tribal Law Enforcement Officer; or
- (2) When the Tribal Law Enforcement Officer has reasonable cause to believe a civil infraction has been committed.

(b) **Identification.** A Person who has committed, or is reasonably suspected of committing, a civil infraction and is stopped by a Tribal Law Enforcement Officer is required to identify himself or herself by providing the enforcement officer his or her name,

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

address, and date of birth. If requested by the enforcement officer, the Person shall also produce a picture identification card, such as a driver's license, military I.D. or tribal card. If the Person is unable or unwilling to identify himself or herself, or produce a picture identification card, the enforcement officer may detain the Person for a reasonable period of time in order to identify the Person and issue a civil infraction citation.

**(c) Final Determination Unless Contested.** A civil citation represents the Tribe's official determination that a civil infraction in violation of this Ordinance has been committed. This determination is final unless the Person contests the citation in a manner set forth in this Ordinance.

**(d) Notice Requirement.**

- (1) Notice of Correction.** Notice of Correction shall be served upon any Person found to be in violation of this Ordinance in writing that specifies the nature of the violation, the action(s) the Person must take to correct the violation, the due date for compliance and the monetary penalty pursuant to the Schedule of Fines and enforcement consequences of non-compliance. The Notice or Correction shall be deemed personally served on any Person upon the sworn statement of the citing officer with proof of copy produced by the Tribal Administration Enforcement Officer.
- (2) Civil Citation.** The contents of a civil citation shall include the following:
  - (A)** A statement that the civil infraction is a non-criminal offense for which imprisonment is not an available sanction;
  - (B)** A statement listing the provision of the Ordinance violated and a statement briefly describing the conduct of the Person which led to the violation of this Ordinance;
  - (C)** A statement listing the monetary penalty imposed pursuant to the Schedule of Fines for the civil infraction described therein and that the Person may be noticed by separate letter that the

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

penalty amount has increased after a determination that the Person has previous violations;

- (D) A statement on how a Person may contest the citation;
- (E) A statement that the Person must respond to the citation within thirty (30) days from the date of service of the citation; and
- (F) A statement that 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 monetary penalty pursuant to the Schedule of Fines for the civil infraction described therein plus any sanction imposed by the Rincon Tribal Court for Person's failure to appear.

(e) **Second Notice.** A second notice may be served on a Person who has been served a civil citation informing him or her that the amount of the penalty reflected on the civil citation has been increased due to the fact that the Person has been cited for one or more times in the past twelve months for the same infraction thereby enhancing the penalty for the recent infraction. 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.

(f) **Service of the Citation.** The civil citation may be served on the Person in the following manner:

- (1) Personal service by Tribal Law Enforcement Officer; or
  - (2) Mailing the civil citation by certified or registered mail, return receipt requested, addressed to the Person at his or her mailing address if known, or such other address which is believed to give the Person actual notice of the civil citation.
- (A) Service shall be deemed effective on the date of the personal service by Tribal Law Enforcement Officer or on the date the certified mail is either delivered or delivery of the same is attempted. If the certified mail receipt is returned unsigned,



RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

then service shall be deemed effective on the date that is three (3) days following deposit in the mail.

- (B) Where service of any notice of civil citation is effected in compliance with this Ordinance, the alleged failure of any Person to receive service of process and notice of civil citation shall not affect the validity of any proceedings taken under this Ordinance.
- (C) A copy of the civil citation and the proof of service shall be filed with the Rincon Tribal Court within seventy-two (72) hours of issuance, excluding weekends and holidays. If the Rincon Tribal Court does not receive the civil citation and proof of service within seventy-two (72) hours of issuance, the Rincon Tribal Court may dismiss the civil citation without prejudice.

**(g) Seizure/Forfeiture of Property.** A Tribal Law Enforcement Officer may, upon Probable Cause when issuing a citation for a civil infraction, seize any property used in the commission of a violation of this Ordinance. All property utilized in violation of this Ordinance is also subject to seizure and forfeiture by order of the Rincon Tribal Court. The Band must return any property confiscated to its owner unless the Rincon Tribal Court determines that the possession of the property is unlawful or could be deemed a risk to facilitate future violations of this Ordinance, in which case it will become the property of the Band.

**§15.215 HEARING PROCEDURES AND PENALTY**

**(a) Response Options.** A Person shall respond to the civil citation in one of the following ways:

- (1) Pay the fine by submitting cash, cashier's check or money order in the amount of the civil fine to the Band within thirty (30) days from the date the civil citation is served; or
- (2) Request a hearing to contest the citation by completing the Request for Hearing portion of the civil citation form, in accordance with the instructions set forth on the citation form, and submitting the request

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

to Rincon Tribal Court, within thirty (30) days from the date of issuance of the citation.

**(b) Failure to Respond.** If a Person who is served with a civil citation fails to pay the fine amount, fails to request a hearing or fails to appear at a hearing that he or she has requested, the Rincon Tribal Court shall enter a default judgment against the Person, and may impose additional sanctions for failing to respond.

**(c) Hearing.**

- (1)** A hearing shall be scheduled within thirty (30) days from the Rincon Tribal Court's receipt of a Request for Hearing. The Rincon Tribal Court shall provide a written Notice of Hearing to the Petitioner requesting the hearing (herein "Petitioner") and Tribal Law Enforcement. The Notice of Hearing shall state the date, time and place of the hearing and shall be served at least fifteen (15) days prior to the date of the hearing. The Notice of Hearing to Law Enforcement shall include as an attachment a copy of the Petitioner's completed Request for Hearing form.
- (2)** If the Tribal Law Enforcement Officer submits an additional written report concerning the civil citation to the Rincon Tribal Court for consideration at the hearing, then a copy of this report also shall be served on the Petitioner at least five (5) days prior to the date of the hearing.
- (3)** The Petitioner or the Tribal Law Enforcement Officer may request one (1) continuance for any reason, provided that Rincon Tribal Court is given the request for a continuance at least forty-eight (48) hours in advance of the scheduled hearing and that the rescheduled hearing shall not be deferred more than forty-five (45) days after the Petitioner's original hearing request was filed. A request for continuance made less than forty-eight (48) hours before the scheduled hearing may be granted in the discretion of the Rincon Tribal Court based upon a showing good cause.

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

- (4) All hearings shall be closed to the public unless all parties in interest agree to a public hearing. At the hearing, the Petitioner shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the civil citation. The Petitioner may appear personally or through an attorney. Prehearing discovery is not authorized, but subpoenas of witnesses and documents shall be permitted as authorized by Tribal law or the Tribal Court's Rules of Court. The Rincon Tribal Court judge is authorized to conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing.
- (5) The civil citation and any additional report submitted by Tribal Law Enforcement Officer or Tribal Administration Enforcement Officer shall constitute presumptive evidence of the respective facts contained in those documents.
- (6) The Rincon Tribal Court may continue the hearing and request additional information from the Tribal Law Enforcement Officer or the Tribal Administration Enforcement Officer or the Petitioner of the civil citation prior to issuing a written decision.

**(d) Rincon Tribal Court Decision.** After considering all the testimony and evidence submitted at the hearing, the Rincon Tribal Court judge shall issue a written decision to uphold or dismiss the civil citation and the reasons for that decision, including written findings on each violation of this Ordinance. The decision of the Rincon Tribal Court judge shall be issued within ten (10) calendar days following completion of the hearing.

- (1) If the Rincon Tribal Court judge determines the civil citation should be upheld, he or she may apply any of the following remedies:
  - (A) Issue an injunction, by ordering the Petitioner to temporarily or permanently refrain from conducting the acts or actions that gave rise to the civil citation.
  - (B) Impose monetary penalty(ies) in an amount not to exceed the maximum provided in the Schedule of Fines in effect on the

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

date the violation occurred. In determining the amount of the monetary penalty(ies), the judge may take into account any or all of the following factors:

- (i) the duration of the violation;
  - (ii) the frequency, recurrence, and number of violations, related or unrelated, by the same Person;
  - (iii) the seriousness of the violation;
  - (iv) the economic impact of the violation on the community; and
  - (v) such other factors as justice may require.
- (C) Suspend the monetary penalty(ies) on the condition that the Petitioner does not commit any other violations of this Ordinance and complies with all Rincon Tribal Court orders relating to the violation during a specified period not to exceed one (1) year.
- (D) Upon petition by the Tribe, in cases of multiple and repeated violations of this Ordinance, issue an order to ensure the safety, well-being and rehabilitation of adults or juveniles who come within or consent to its jurisdiction that mandates a formal clinical assessment by qualified professional(s) or the Indian Health Clinic (IHC) team of professionals within forty-eight (48) hours of the order and compulsory compliance with the treatment plan prescribed by the qualified professional(s) or the IHC team as an alternative to exclusion from the Rincon Reservation or state criminal or juvenile court disposition.
- (E) Issue such other order as may be deemed fair and just by the Rincon Tribal Court.
- (2) If the Rincon Tribal Court judge finds that a Request for Hearing plainly lacks merit, the judge may hold the Petitioner liable for, and

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

---

order Petitioner to pay, reasonable fees and costs, including attorney's fees, incurred by the Tribe.

- (3) If the Rincon Tribal Court judge determines the civil citation should be upheld, he or she shall order the payment of the monetary penalty pursuant to the Schedule of Fines as well as for payment of any reasonable administrative costs incurred to the Tribe arising from enforcement of the civil citation pursuant to this Ordinance. Late payment charges shall accrue and be payable in the amount and by the terms specified in the Schedule of Fines.
- (4) If the Rincon Tribal Court judge determines the civil citation should be dismissed, he or she shall order dismissal.
- (5) The Petitioner and the Tribal Law Enforcement Officer shall be served with a copy of the Rincon Tribal Court order within seven (7) calendar days of its issuance.
- (6) The decision of the Rincon Tribal Court shall be final and not subject to further review upon service on the Petitioner.

**(e) Collection.** In any case where a Person has been found by the Rincon Tribal Court to have committed a civil infraction and a monetary penalty pursuant to the Schedule of Fines has been assessed, the Person has thirty (30) days to make payment. For good cause shown, the Rincon 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 monetary penalty of a minor.

- (1) If the Person has not paid the monetary penalty within the time ordered by the Rincon Tribal Court, the Tribe can move the Rincon Tribal Court to take any and all actions necessary to collect the fine, including but not limited to the following:
  - (A) Refer the monetary penalty to a collection agency or other collection institution;

RINCON PEACE AND SECURITY ORDINANCE

Rincon Tribal Code §15.200

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- (B) Upon written request from the Tribe, issue an order to an employer on the Reservation to garnish up to twenty-five (25%) percent of the Person's wages;
- (C) Upon written request from the Tribe, issue an order directing the Tribe to garnish the Person's per capita distribution up to the amount of the fine;
- (D) Upon written request from the Tribe, issue a garnishment order against an off-Reservation employer or any other entity that compensates the Person in wages or money.
- (E) Exclude the Person from the Rincon Reservation until such time the fine has been paid.

**§15.216 GENERAL PROVISIONS**

(a) **Severability.** If any provision of this Ordinance, or its application to any Person, legal entity or circumstance is held invalid, struck down repealed, found unconstitutional, or otherwise becomes legally inoperative in any manner, the remainder of the Ordinance, and all other provisions shall remain in full force and effect.

(b) **Sovereign Immunity.** All inherent sovereign rights of the Band as a federally recognized Indian tribe with respect to this Ordinance are expressly reserved, including sovereign immunity from unconsented suit. Nothing in this Ordinance shall be deemed or construed to be a waiver of sovereign immunity from unconsented suit by the Band, its officers, employees or agents.

**[Appendix A – Schedule of Fines immediately follows]**

**APPENDIX A**

**Schedule of Fines for Rincon Peace and Security Code Violations**

*All violations below are found in the Rincon Peace and Security Code.*

*The civil penalties listed below may be tripled in any case where the Person receiving the civil citation willfully and maliciously, or with gross recklessness, caused physical harm to another Person.*

<b>Violation</b>	<b>Description</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>
<b>Malicious Mischief</b>				
15.206(a)(1)	Damages or destroys property of owner	\$200	\$400	\$1000
15.206(a)(2)	Tampers with property	\$200	\$400	\$1000
15.206(a)(3)	Make markings or paints on property	\$200	\$400	\$1000
15.206(a)(4)	Alters, defaces or damages tribal property	\$200	\$400	\$1000
15.206(a)(5)	Aids, assist in committing malicious mischief	\$100	\$400	\$1000
<b>Trespass</b>				
15.206(b)(1)	Had notice entry was forbidden	\$200	\$500	\$1000
15.206(b)(2)	Failed to depart after ordered	\$200	\$500	\$1000
15.206(b)(3)	Has been excluded from reservation	\$200	\$500	\$1000
15.206(b)(4)	In dwelling or with dangerous weapon	\$1000	\$2000	\$5000
15.206(b)(5)	Mobile vendor without permit	\$500	\$1000	\$2000
<b>Nuisance &amp; Public Nuisance</b>				
15.206(c)(1)	Interference with another person's property	\$200	\$400	\$800
15.206(c)(2)	Interference with community health, safety, or property	\$200	\$400	\$800
<b>Reckless Damage or Destruction</b>				
15.206(d)	Recklessly damages or destroys property	\$300	\$500	\$1000
<b>Arson</b>				
15.206(e)	Intentionally sets fire without authorization	\$1000	\$2000	\$5000
<b>Disorderly Conduct</b>				
15.207(a)(1)	Fights, challenges to fight another person	\$200	\$400	\$800
15.207(a)(2)	Creates, allows or permits excessive noise	\$200	\$400	\$800
15.207(a)(3)	Brandishing a dangerous weapon	\$500	\$1000	\$2000
15.207(a)(4)	Abuses or threatens in offensive manner	\$200	\$400	\$800
15.207(a)(5)	Engages in lewd behavior	\$100	\$200	\$500
15.207 (a)(6)	Uses abusive, vulgar language on tribal property	\$100	\$200	\$500
15.207(a)(7)	Discharges a firearm on reservation	\$100	\$400	\$800
15.207(a)(8)	Urinating or defecating in public	\$100	\$200	\$500
<b>Possession of a dangerous weapon or firearm</b>				
15.207(b)	Carries dangerous weapon or firearm on person	\$100	\$250	\$800

<b>Violation</b>	<b>Description</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>
<b>Loitering and Curfew</b>				
15.207(c)(1)(a)	Remaining on property without legitimate purpose	\$100	\$250	\$800
15.207(c)(3)(A)	Minor remaining on street/tribal property from 10:00 PM - 6:00 AM	\$100	\$250	\$800
15.207(c)(3)(B)	Parent, guardian or custodian permits minor remaining on street/tribal property from 10:00 PM - 6:00 AM	\$100	\$250	\$800
<b>Interfering with Law Enforcement duties</b>				
15.208(a)(1)	Interferes, obstructs or resists tribal officer	\$250	\$500	\$2000
15.208(a)(2)	Flees from tribal officer	\$250	\$500	\$2000
<b>Aiding and harboring criminal/excluded person</b>				
15.208(b)	Aid, abet, or harbor fugitive or excluded person	\$2000	\$3000	\$4000
<b>Fine, penalty, regulation, or fee non-compliance</b>				
15.208(c)	Non-Compliance with Tribal fines, penalties, regulations, and fees	\$250	\$500	\$2000
<b>Battery or Aggravated Battery</b>				
15.209(a)(1)	Causes bodily injury	\$200	\$400	\$1000
15.209(a)(2)	Causes serious bodily injury	\$500	\$1000	\$2000
15.209(a)(3)	Threatens another with bodily or serious injury	\$150	\$300	\$800
15.209(a)(4)	Causes physical contact with another	\$200	\$500	\$1000
15.209(a)(5)	Forcibly batters, resists, tribal law enforcement	\$500	\$1000	\$2000
15.209(b)	Uses or exhibits a weapon during battery	\$500	\$1000	\$2000
<b>Cruelty to Animals and Animals at Large</b>				
15.209(c)	Physically mistreat animal by abuse or failure to care for	\$100	\$200	\$500
15.209(d)	Permit an animal to be at large (except cat)	\$200	\$400	\$500
<b>Furnishing Alcohol to Persons under the age of 21</b>				
15.210(a)	Furnishing alcohol to person under 21	\$500	\$800	\$1500
<b>Distributing Tobacco Products to minor</b>				
15.210(b)	Give, purchase or furnish tobacco products under 21	\$500	\$800	\$1500
<b>Chemical Intoxication</b>				
15.211(a)(1)	Inhales, ingests, uses or possesses volatile chemical	\$100	\$250	\$500
15.211(a)(2)	Sells, offers for sale, or gives volatile chemical to minor	\$300	\$500	\$1000
<b>Illegal drugs</b>				
15.211(b)	Possesses or consumes dangerous drugs	\$300	\$500	\$1000



<b>Violation</b>	<b>Description</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>
<b>Intoxication on tribal property</b>				
15.211(c)	Intoxicated on tribal property, danger to themselves	\$100	\$250	\$500
<b>Unlawful operation of motor vehicle</b>				
15.212(a)(1)	Parks on street, curb or designated no parking area	\$200	\$300	\$500
15.212(a)(2)	Operates with disregard for safety of persons/property	\$150	\$300	\$1000
15.212(a)(3)	Operates in excess of posted speed limit on any road	\$200	\$400	\$1000
15.212(a)(4)	Disturbs the peace	\$200	\$400	\$1000
15.212(a)(5)	Operates an ORV between 10 PM and 6 AM	\$200	\$400	\$1000
15.212(a)(6)	Operates without spark arrester and muffler	\$200	\$400	\$1000
15.212(a)(7)	Operates without helmet	\$200	\$400	\$1000
15.212(a)(8)	Operates in restricted/prohibited area	\$200	\$400	\$1000
<b>Unlawful Dumping Activities</b>				
15.212(c)(1)	Dump waste harmful to public health and safety	\$1000	\$2000	\$3000
15.212(c)(2) <i>[ref. RTC § 8.505(a)]</i>	Dump waste within the Reservation, e.g. household trash on roadside (no hazardous waste)	\$1000	\$2000	\$4000
15.212(c)(2) <i>[ref. RTC § 8.505(a)]</i>	Dump 60-120 gallons of household trash on the Reservation	\$1500	\$3000	\$6000
15.212(c)(3)	Litter on public or another's private property	\$500	\$1000	\$1000
15.212(c)(4)	Place waste in another's waste container	\$200	\$400	\$1000
15.212(c)(5)	Dump or accumulate large, bulky unused debris	\$200	\$400	\$1000
15.212(c)(6)	Leave or permit dead pets within 100 feet of public use areas	\$200	\$400	\$1000
15.212(c)(7)	Intentional entry into Reservation to dump waste	\$200	\$400	\$1000
15.212(c)(8)	Operate landfill or waste disposal or collection site	\$1000	\$2000	\$3000
15.212(c)(9) <i>[ref. RTC § 8.505(a)]</i>	Generate, store, transfer, transport, treat, discharge, release or dispose of hazardous waste (1-10 gallons)	\$1500	\$3000	\$6000
15.212(c)(9) <i>[ref. RTC § 8.505(a)]</i>	Generate, store, transfer, transport, treat, discharge, release or dispose of hazardous waste (30-plus gallons or feet of hazardous substance)	\$2000	\$4000	\$8000
15.212(c)(10)	Open burning of solid waste	\$200	\$400	\$1000
15.212(c)(11)	Transport of uncovered unsecured solid waste	\$200	\$400	\$1000
<b>Unlawful use of recreational vehicles or camping tents</b>				
15.212(f)	Unlawful use of recreational vehicles or camping tents	\$1,000	\$1,000	\$1,000
<b>Prohibition of Large Parties &amp; Gatherings</b>				
15.213	Causes or hosts loud and unruly large party or gathering	\$200	\$300	\$500

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Adopted 3/27/08

Amended 8/21/12; 3/2/17; 4/18/17; 5/11/17; 3/29/18; 5/10/18;  
11/16/18; 9/12/19; 10/10/19; 11/12/19; 1/30/20; 10/7/21; 1/11/24