

**FIRST LEGISLATURE OF THE
IIPAY NATION OF SANTA YSABEL**
5th Legislative Session

BILL

To Enact a Code Governing the Peace and Security of the Iipay Nation of Santa Ysabel

BILL NO: LB 13-04

DATE INTRODUCED: 7/4/2013

SPONSORING LEGISLATOR(S): ALL LEGISLATORS

SUBJECT: Peace and Security Code

**PEACE AND SECURITY CODE
OF THE IIPAY NATION OF SANTA YSABEL**

ARTICLE I - TITLE.

1.01. Title. The attached Act shall be referred to as the "Peace and Security Code of the Iipay Nation of Santa Ysabel".

ARTICLE II - FINDINGS.

2.01. Findings. The Legislature finds:

- (a) The Legislature, has the authority pursuant to Article V, Section 2(a) of the Constitution of the Iipay Nation of Santa Ysabel to "make laws and resolutions necessary and proper for the good of the Nation in accordance with the Legislative Process set forth in Article V Section 3 of the Constitution, as well as has the inherent sovereign right to enact laws to safeguard and provide for the health, safety and welfare of the Nation. Accordingly, the Legislature has determined that it is in the best interests of the Nation and necessary to protect public welfare to enact laws governing the peace and security of all persons and property subject to Tribal jurisdiction; and
- (b) It is the policy of the Nation that all persons on the Reservation are entitled to the peaceful and tranquil pursuit of their lifestyles. It is the further policy of the Nation that persons within the Territory of the Nation are entitled to security

against harassment, vandalism, disturbing the peace and other antisocial acts, both in public and in private.

ARTICLE III - PURPOSE.

3.01. Purpose. The purpose of this Act is to enact a law to govern the peace and security of persons and property subject to the jurisdiction of the Nation.

ARTICLE IV – ENACTMENT OF THE PEACE AND SECURITY CODE.

4.01. Enactment.

- (a). The Legislature hereby enacts the attached Act entitled “Iipay Nation of Santa Ysabel Peace and Security Code”.
- (b). All acts, laws or customs and traditions in conflict with this Act are hereby repealed.


ARTICLE V – SEVERABILITY

5.01. Severability. If any provision of the Peace and Security Code is held to be void, invalid, or unenforceable, it shall be considered deleted and the invalidity of such provision shall not affect the validity or enforceability of any other provision which shall be given effect in the absence of the invalid provision. The remaining provisions shall continue in full force and effect without being invalidated.

SO ENACTED this 233rd day of 2013, by the Legislature of the Iipay Nation in the 5th Session, by a vote of 3 FOR, 0 AGAINST, AND 0 ABSTAINING, AND 1 NOT PRESENT as follows:

		<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>NOT PRESENT</u>
Paul Gonzalez	Legislative Speaker	1			
Sunni Dominguez	Legislator				1
Brenda Osuna	Legislator	1			
Misty Taylor	Legislator	1			
Vacant	Legislator				
Vacant	Legislator				
Vacant	Legislator				

LEGISLATIVE HISTORY

Date of Formal Introduction	<u>7/4/2013</u>
Date of Reading into the Legislative Record	<u>7/4/2013</u>
Date of Publication into the Legislative Calendar	<u>7/4/2013</u>
Date of Legislative Hearing	<u>8/14/2013</u>
Date of Approval by the Legislature	<u>8/21/2013</u>
Date of the Chairman's Signature	<u>8/21/13</u>
Date of Chairman's Veto	<u></u>
Date of the Legislature's Veto Override	<u></u>
Deadline of Receipt of Verified Petition to General Council	<u></u>
Date of Receipt of Verified Petition	<u></u>
Date of General Council Repeal	<u></u>
Chairman's Signature	<u></u>

Iipay Nation of Santa Ysabel

Peace and Security Code



IIPAY NATION OF SANTA YSABEL

PEACE AND SECURITY CODE

Part 1. JURISDICTION AND CONSTRUCTION

A. Jurisdiction

The Iipay Nation of Santa Ysabel Tribal Court ("Tribal Court") shall have jurisdiction over all cases arising under this Code. The jurisdiction of the Tribal Court shall extend to all persons and lands within the exterior boundaries of the Reservation including Tract One, Tract Two, and Tract Three, all lands held in trust by the United States for the benefit of the Nation or the People, and any additional lands acquired by the Nation. The jurisdiction of the Tribal Court is limited only by the Nation's Constitution, and applicable federal law.

B. Liberal Construction

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

1. Preserve the peace, harmony, safety, health and general welfare of the people of the Nation and those permitted to enter or reside on the Reservation;
2. Ensure peace and order on the Santa Ysabel Reservation;
3. Promote the welfare of the Nation and its members;
4. Safeguard individual rights and community standards;
5. Secure rights and powers, which are inherent in the Nation's sovereign status;
6. Exert jurisdiction over all matters essential to the Nation's self-determination and self-governance;

7. Treat all parties fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act and by the traditions, customs and laws of the Nation;
8. Resolve disputes fairly and efficiently.

C. General Definitions

1. "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.
2. "Civil Infraction" means a violation of tribal law as set forth in this Code.
3. "Dangerous Weapon" means any weapon, device, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is known to be capable of producing death or serious bodily injury (for example, clubs, brass knuckles).
4. "Firearm" means any device 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.
5. "General Council" means all adult voting members of the Nation.
6. "Motor Vehicle" or "Vehicle" shall include cars, any motorcycle, All Terrain Vehicle (ATV), 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.
7. "Probable Cause" means the existence of facts and circumstances within one's knowledge and of which one has reasonably trustworthy information sufficient to warrant a person of reasonable caution to believe that an infraction has been committed.
8. "Private Property" means any property owned in fee, individual land where title is held in the name of the United States in trust for the individual (allotments), and for purposes of this Code only tribal trust land issued to tribal members (assignments or family holdings), or other tribally controlled lands not held in trust for the Nation.

9. "Reservation" means the Santa Ysabel Reservation as established under the laws of the United States and set forth in the Nation's Constitution and shall encompass all territory within the boundaries as now or hereafter prescribed or ascertained within the exterior boundaries of the Reservation including Tract One, Tract Two, and Tract Three, all lands held in trust by the United States for the benefit of the Nation or the People, and any additional lands acquired by the Nation. The lands within the Territory shall include all water, property, airspace, surface, subsurface, natural resources, and any interests therein, notwithstanding the issuance of any patent or right-of-way in fee or otherwise, held by the governments of the United States or the Nation, existing or in the future.
10. "Santa Ysabel Tribal Court" means the Intertribal Court of Southern California or other such court as may be designated by the Laws of the Nation.
11. "Trially Approved Function" means a social, governmental, or cultural event that has been approved by the Nation.
12. "Tribal Property" as used in this Code means all property held by the United States government in trust for the Nation.
13. "Tribal Law Enforcement Officer" means a person designated by the Nation to enforce this Code and to act as a law enforcement officer for the Nation.
14. "Tribal Official" means a person elected by the Nation as a member of the Legislature or the Executive.
15. "Tribal Security Officer" means a person designated by the Nation to provide security at a specific location and/or for a specific purpose.

Part 2. VIOLATIONS

A. General Penalty Provisions

1. A person committing a violation under this Code will be subject to a civil fine as set forth in this section;
2. In addition to, or in lieu of, the civil fine the Tribal Court may grant such other relief as is necessary and proper, including, but not limited to the following: community service, restitution, treatment and/or counseling, and traditional sanctions; and

3. The Tribal Court has the authority to forfeit property, suspend or cancel a license or permit, or cite for contempt.

B. Classification of Civil Infractions

1. Class A Civil Infraction. Punishable by civil fine not to exceed \$5,000.
2. Class B Civil Infraction. Punishable by civil fine not to exceed \$2,000.
3. Class C Civil Infraction. Punishable by civil fine not to exceed \$250.

C. Penalties for Repeated Civil Infractions

Any person who repeatedly commits a civil infraction will be subject to the following penalties:

1. A person violating a Class A Civil Infraction three (3) or more times may be subject to banishment.
2. A person violating a Class B Civil Infraction three (3) or more times may be subject to a Class A civil fine.
3. A person violating a Class C Civil Infraction three (3) or more times may be subject to a Class B civil fine.
4. A person violating a Class C Civil Infraction four (4) or more times may be subject to a Class A civil fine.

D. Civil Penalties Deferred

The Tribal Court may choose not to impose civil penalties for a period not to exceed one (1) year if justice so requires and/or the following criteria is met:

1. The person has not committed any previous violations of this Code;
2. The person does not commit any other violations of this Code during the time the civil penalty is deferred or suspended;
3. The person does not commit any infractions, violations or offenses during the time the civil penalty is deferred or suspended; and

4. The person complies with all Tribal Court Orders concerning the civil infraction to the best of his or her ability.

E. Community Service

The Tribal Court recognizes that a person who violates this Code may be unable to pay his or her fine as imposed by the Tribal Court. For this reason the Tribal Court, at its discretion, may order community service in addition to or in place of a civil fine. The Tribal Court will determine if a person is a suitable candidate for community service and will carry out the service.

1. Community Service is limited to:
 - a. Tribal property or tribal agencies; or
 - b. The primary residence of a tribal elder.
2. Tribal agencies or elders requiring services must submit a written request to the Tribal Court Administrator.
3. Assistance will be distributed in the order that requests are received.
4. The Tribal Court will keep a log of both services requested and performed.
5. The Tribal Court will provide a form for verification of community service to the service worker.
6. The community service will be responsible for:
 - a. Obtaining written verification from the monitoring supervisor on the provided form; and
 - b. Submitting the form to the Tribal Court.

F. Referral for Treatment

1. In place of, or in addition to, a civil penalty, the Tribal Court, at its discretion, may refer a violator to mental health providers including an alcohol/substance abuse program, and/or social services program for an evaluation, counseling and/or treatment.

2. After completion of an evaluation, the agency conducting the evaluation shall report its finding and recommendations to the Tribal Court or an officer assigned by the Tribal Court.
3. The Tribal Court may order mental health providers to submit progress reports of treatment. An officer assigned by the Tribal Court will monitor the person's progress in his or her treatment program.
4. Residential treatment facilities are an option for persons violating this Code if so requested by the person and if recommended by an authorized mental health or other treatment agency.

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 Code. All property utilized in violation of this Code is also subject to seizure and forfeiture by order of the Tribal Court. The Nation must return any property confiscated to its rightful owner unless the Tribal Court determines that the possession of the property is unlawful or a violation of this Code, in which case it will become property of the Nation.

H. Seizure/Forfeiture of Property

1. In any case where a person has been found to have committed a civil infraction and a civil penalty has been assessed, the person has thirty (30) days to pay the civil fine. For good cause shown, the Tribal court may extend the time for payment or approve an installment plan. Parent(s), guardians or any adult responsible for the care of a minor (a person under the age of eighteen) are liable for the civil fine of said minor.
2. If the person has not paid the civil fine within the time allotted by the Tribal Court, the Court may take any and all actions necessary to collect the civil fine, including but not limited to the following:
 - a. Refer the civil fine to a collection agency or other collection institution;
 - b. Order employer on the Reservation to garnish up to 25% of the violator's wages;
 - c. Order the Tribal Administrator, or other appropriate tribal official, to garnish up to 100% of the violator's revenue sharing trust fund distribution;

- d. Sell any property confiscated under this Code, up to the amount of the civil fine; or
- e. Upon written request from the Nation, issue a garnishment order against an off-Reservation employer or any other entity that issues the violator wages or money.

Part 3. Civil Infractions Against Property

A. Definitions

For this Section, the following definitions will apply:

1. "Alter" means to change, modify, or vary in some degree; to change some of the elements, ingredients or details without substituting an entirely new thing or destroying the identity of the thing affected.
2. "Damage" means loss, injury, or deterioration to property causing it to decrease in strength, value, amount or quality.
3. "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.
4. "Deface" means damage to monuments, buildings or other structures by changing the physical appearance.
5. "Financial loss" means a loss of money or of something by which money or of value may be acquired.
6. "Property" means:
 - a. Real property such as land or structures and building affixed to land and includes both tribal and private;
 - b. Personal property which is anything tangible or that can be severed from real property.

B. Malicious Mischief

1. A person commits the civil infraction of Malicious Mischief if he or she, without the effective consent of the owner:

- a. Damages or destroys the property of the owner;
- b. Tamper with property of the owner and causes financial loss or substantial inconvenience to the owner or a third person;
- c. Makes markings, including, inscriptions, slogans, drawings, or painting on the property of the owner;
- d. Alters, defaces or damages tribally owned property, which may include a monument, structure or facility, place of worship or burial ground or any other property of the Nation; or
- e. Aids, assists, commands, or counsels another to commit Malicious Mischief.

2. An infraction under subsections "a", "b", "c" and "e" is a:

- a. Class A Civil Infraction if the amount of financial loss is more than \$250;
- b. Class B Civil Infraction if the amount of financial loss is more than \$20, but less than \$250; or
- c. Class C Civil Infraction if the amount of financial loss is less than \$20.

3. An infraction under subsection "d" is a Class A Civil Infraction.

A. Trespass

1. A person, other than a tribal official carrying out tribal business, commits the civil infraction of Trespass if he or she enters or remains on tribal or private property of another and:

- a. Had notice that the entry was forbidden;
- b. Was ordered to depart after entry and failed to do so; or
- c. Has been excluded from the Reservation by Tribal Court order.

2. Notice or an order may be given by:
 - a. Written or verbal communication given to the intruder by a Tribal Official, Tribal Law Enforcement Officer, the owner of the property or a person authorized to act on behalf of the owner;
 - b. Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
 - c. Fences, barricades or other devices obviously designed to enclose the property and to exclude all potential intruders.
 - d. Written exclusion order issued by the Tribal Court.
3. An infraction under this subsection is a Class B Civil Infraction, unless it is committed in a private dwelling, a tribal building or unless the trespasser carries a dangerous weapon on or about his person during the commission of the infraction in which case it is a Class A Civil Infraction.

D. Reckless Damage or Destruction

1. A person commits the civil infraction of Reckless Damage or Destruction if, without the consent of the owner, he or she recklessly damages or destroys property of the owner.
2. An infraction under this subsection is a Class C Civil Infraction.
3. "Recklessly" means a person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him/her.

E. Arson

1. 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 any trailer, motor vehicle, camper, dwelling, structure, barn, stable, crops or open area located within the boundaries of the Reservation, unless such burning has been expressly authorized by the Santa Ysabel Fire Department and/or the Executive Branch of the Nation in writing. The Santa Ysabel Fire Department is hereby authorized to issue regulations governing burning practices, burn restrictions, suspensions and closures for the Iipay Nation of Santa Ysabel.

2. An infraction under this subsection is a Class A Infraction.

Part 4. Civil Infractions Against the Peace

A. Disorderly Conduct

1. A person commits the civil infraction of Disorderly Conduct if he or she:
 - a. Fights, or challenges to fight, any other person within the boundaries of the Reservation;
 - b. 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;
 - c. Brandishing a dangerous weapon or firearm in an offensive manner;
 - d. Abuses or threatens a person in an obviously offensive manner;
 - e. Engages in lewd behavior and is reckless about whether another person is present who will be alarmed by his or her act; or
 - f. Uses abusive, indecent, profane, or vulgar language in a tribal building or on tribal property, and the language by its very utterance tends to incite a breach of the peace.
 - g. Discharges a firearm on the Reservation except by:
 - i. Tribal Law Enforcement Officers while in the performance of their official duties;
 - ii. Any other state, federal or tribal law enforcement officer, while in the performance of their official duties;
 - iii. Tribal members, during day light hours and within the boundaries of his or her property, but only if done in a reasonable manner that does not endanger others and does not cause a nuisance.
 - iv. Tribal members at tribal designated shooting area.

h. 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.

2. An infraction under this subsection is a Class C Civil Infraction unless committed under subsections "c" or "d" in which event it is a Class B Civil Infraction.

B. Possession of a Dangerous Weapon and/or Firearm

1. Any Tribal Law Enforcement Officer or other tribally designated security or law enforcement officer may, upon probable cause, confiscate a dangerous weapon and/or a firearm from any person who violates this subsection.

2. Tribal members may possess firearms within the boundaries of the Reservation.

3. An infraction under this subsection is a Class B Civil Infraction

C. Loitering and Curfew

1. A violation of Loitering is when a person, without a legitimate purpose, physically remains around tribal facilities or commercial businesses on the Reservation unless it is during a scheduled tribal meeting or social function.

2. A person violates Curfew if:

a. He or she is a minor (under the age of 18 years old) 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 scheduled tribal meeting or social function;

b. He or she is a parent, guardian or custodian of a minor and knowingly permits or by insufficient control allows the minor to remain on any streets or tribal property between 10:00 p.m. and 6:00 a.m.

c. He or she is a parent of a minor and knowingly fails to respond within two hours of notification by Tribal Security, law enforcement official or Tribal Official to take custody of a minor taken into protective care for violation of this subsection.

3. An infraction under this subsection is a Class C Civil Infraction.

Part 5. Civil Infractions Against the Tribal Government

A. Interfering with Lawful Duties

1. A person commits the civil infraction of Interfering with Lawful Duties if by force, violence or other means, he or she:
 - a. Interferes, obstructs or resists any tribal official, Tribal Fire Department Official, Tribal Law Enforcement Officer, or other law enforcement officer in the performance of their official duties;
 - b. Flees from any Tribal Law Enforcement Officer, or other law enforcement officer who is attempting to lawfully carry out his or her duties, or
 - c. Assists another to avoid a lawful detention or harbors a fugitive.
2. An infraction under this subsection is a Class B Civil Infraction unless the person introduces a weapon in which event it is a Class A Civil Infraction.

Part 6. Civil Infractions Against the Person and Animals

A. Battery or Aggravated Battery

1. As used in this subsection:
 - a. "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.
 - b. "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.
2. A person commits the civil infraction of Battery if he or she:
 - a. Causes bodily injury to another;
 - b. Causes serious bodily injury to another;

- c. Threatens another with imminent bodily or serious bodily injury;
 - d. Causes physical contact with another when the person knows or should reasonably believe that the person will regard the contact as offensive or provocative;
 - e. Uses or exhibits a weapon during the commission of battery; or
 - f. Forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any tribal official, authorized Tribal Law Enforcement Officer, Tribal Security Officer or other law enforcement officer lawfully discharging an official duty.
3. An infraction under this subsection is a:
- a. Class A Civil Infraction if committed under subsections "e" or "f";
 - b. Class B Civil Infraction if committed under subsection "b"; or
 - c. Class C Civil Infraction if committed under subsections "a", "c" or "d".

B. Harassment

1. A person commits the civil infraction of Harassment if, with the intent to harass, annoy, alarm, abuse, torment or embarrass another, he or she:
- a. Initiates communication by telephone or in writing and in the course of the communication makes a comment, request, suggestion or proposal that is obscene or false;
 - b. Threatens by telephone or in writing, in a manner reasonable likely to alarm the person receiving the threat, to inflict serious injury against the person, a member of his family, or his property;
 - c. Conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;

- d. Causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass or offend another;
- e. Knowingly permits a telephone number under his or her control to be used by a person to commit a civil infraction under this subsection;
- f. Intentionally subjects another to sexual harassment;
- g. Intentionally stalks another; or
- h. Intentionally publishes a false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person (Defamation).

2. An infraction under this subsection is a :

- a. Class A Civil Infraction if committed under subsections "b", "c", "g" or "h";
- b. Class B Civil Infraction if committed under subsection "f";
- c. Class C Civil Infraction if committed under subsection "a", "d" and "e".

Part 7. Civil Infractions Against Minors and Persons Under the Age of 21

A. Contributing to the Delinquency of a minor

- 1. A person commits the civil infraction of contributing to the delinquency of a minor when he or she gives, purchases for, or furnishes any person under the age of 21 any alcohol beverages, or drugs as listed under Section 7.1 on the Santa Ysabel Reservation.
- 2. An infraction under this subsection is a Class B Civil Infraction.

Part 8. Drug and Alcohol Civil Infractions

A. Definitions

1. "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.
2. "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 device or a drug that bears or is required to bear the legend:
 - a. Caution: Federal law prohibits dispensing without a prescription; or
 - b. Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.
3. "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.
4. "Narcotic drug" means any drug under the provision of Chapter 13, Title 21, Section 802, "Narcotic Drug" of the United States Code.

B. 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 gives to any person under the age of 18 years any volatile chemical, abusive glue or aerosol paint.
3. An infraction under this subsection is a Class B Civil Infraction unless it is committed under subsection 2 in which case it becomes a Class A Civil Infraction.

C. Illegal Drugs

1. A person commits a civil infraction under this subsection Illegal Drugs if he or she possesses or consumes without a medical prescription or manufacturers or distributes, sells, or offers to sell dangerous drugs, any drug identified as a controlled substance, a narcotic drug, marijuana, or any drug paraphernalia.
2. An infraction under this subsection is a Class B Civil Infraction unless it is committed under subsection "b" in which case it becomes a Class A Civil Infraction.

D. Intoxication on Tribal Property

1. 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.
2. It is an exception under this subsection if the alcohol or other substance was administered for therapeutic purposes and as part of the person's professional medical treatment by a licensed physician.
3. An infraction under this subsection is a Class B Civil Infraction.

Part 9. Civil Infractions Against Health and Safety

A. Unlawful Operation of Motor Vehicle

1. A person commits the civil infraction of Unlawful Operation of Motor vehicle when he or she:
 - a. Parks his or her Motor Vehicle on the street, curb or other area not designated for parking, or otherwise prohibits the safe passage of two vehicles on the street or road on the Reservation;
 - b. Operates any Motor Vehicle on any street or road within the Reservation in willful disregard for the safety of persons or property;
 - c. Operates any Motor Vehicle in excess of any other posted speed limit on any road on the Reservation. The speed limit on all unposted roads is 15 m.p.h.;

- d. Operates a motor vehicle, as defined under Section I.1.3, anywhere on the Reservation in a manner which disturbs the peace of other Reservation residents;
- e. Operates a motorcycle or ATV anywhere on the Reservation without a spark arrester and muffler;
- f. Operates a motorcycle or ATV without a helmet, unless the operator is over the age of 18 or unless the ATV is equipped with a seatbelt and said seatbelt is worn by the operator; or
- g. Operates a Motor Vehicle in any restricted and/or posted area (i.e. riverbed).

- 2. An infraction under this subsection is a Class B Civil Infraction.

Part 10. DOMESTIC ANIMAL CONTROL

A. Purposes

The Purpose of this Part is to:

- 1. Provide for the control of domestic animals other than those kept for livestock purposes;
- 2. To protect the health, safety, and welfare of the inhabitants and domestic animals of The Iipay Nation of Santa Ysabel;
- 3. To protect the property and livestock of the inhabitants of The Iipay Nation of Santa Ysabel from damage or disease originating with animals.

B. Definitions:

- 1. "Animal Control Officer" shall mean a tribal police officer or other person designated by the Executive Branch, or an Animal Control Officer of San Diego County, State of California, or Sheriff.
- 2. "Dangerous Animal" means any animal that according to the records of the Nation:

- a. Has inflicted severe injury on a human being without provocation on public or private property;
- b. Has killed an animal without provocation while off the owner's property;
- c. Has attacked, bitten or in some other manner injured a person engaged in lawful activity either:
 - i. One time resulting in substantial injury or death; or
 - ii. Is potentially dangerous, where the owner has received notice of the behavior, and the animal again aggressively bites, attacks, traumatizes, or endangers the safety of humans or animals.

3. "Domestic Animal" means dogs and cats and does not include livestock.

4. "Livestock" shall mean domestic animals such as cattle, horses, asses, sheep, goats, swine or the carcasses thereof used or raised on a farm or ranch for resale or personal consumption but shall not include dogs or cats.

5. "Owner" means the legal owner, equitable owner, and any person, association, partnership, or corporation harboring or having custody or control of an animal.

6. "Running at large" means to be off the premises of the animal's owner and not under the control of the owner or competent person authorized by the owner either by leash or verbal and/or signal control.

C. Safety and Control of Dogs and Other Animals

- 1. All dogs within The Iipay Nation of Santa Ysabel shall be required to be kept on the premises of the home of the person who owns or cares for the dog and shall not be allowed outside such premises or allowed to run free except as specifically stated in this Code.
- 2. The owner or person who cares for the dog on his or her premise may allow such dog outside of the premises of his or her home or within the Santa Ysabel Reservation only upon the following conditions:

- a. The dog is restrained by a leash not longer than 10 feet in length and such restraint is sufficient to effectively prevent such dog from biting, molesting, or otherwise disturbing any other animal or person.
- b. Such dog is confined within a motor vehicle in a manner that prevents escape, but does not constitute a cruel restraint of its ability to breathe or move.

D. Seizure of Animals

1. Any dog upon which safety and control restraints have been placed that is found loose outside of the premises of its owner or otherwise in violation of the restrictions set forth in this Code shall be seized by an animal control officer, impounded and the owner notified.
2. The Executive Branch, with approval by the Legislative Branch, may adopt regulations which from animals from seizure and impoundment upon conditions designed to protect the safety and welfare of the Nation.
3. Any animal seized under this code shall be held for a period of 7 days and at the end of such time may be:
 - a. Exterminated unless redeemed by its owner; or
 - b. Otherwise placed so as not to be in violation of this Code.
 - c. An animal may be redeemed by its owner or other person on behalf of the owner, by the payment of all fees accrued.
 - d. Extermination of any animal under this code shall be done by the most humane means possible and may be accomplished by an animal control officer, tribal police officer, licensed veterinarian, or designated employee of the U.S. Public Health service.

E. Liability of Owners Including Dogs Used in Law Enforcement

Every person owning or keeping a dog shall be liable in damages for injury committed by such dog, it shall be necessary to prove that such dog was of vicious or mischievous disposition or that the owner knew that it was vicious or mischievous: but neither the Nation or peace officer employed by the Nation shall be liable in damages for injury committed by a dog when: (1) The dog has been trained to assist in law enforcement, and (2) the injury occurs while the dog is being

carefully used in apprehension, arrest, or location of a suspected offender or in maintaining control of public order.

F. Dogs Acting Together

Where an injury occurs by two or more dogs acting together and owned by different persons, all such persons, may be joined as defendants in the same action to recover damages therefore, and the amount found by the court or jury as damages for such injury shall be apportioned among the several defendants found liable and judgment shall be entered severally against them for the amount apportioned.

G. Dangerous Animals

1. No person shall keep, own, or possess any fierce, dangerous or vicious dog or other animal within the Nation.
2. An animal control officer may seize and impound any animal he believes to be fierce, dangerous, or vicious. Such animal shall not be released from impoundment except upon consent of the impounding officer, or upon order of the Tribal Court upon making a determination, by hearing or otherwise, that no immediate danger to persons or property will result from the animal being released.
3. Any dog or other animal that is reasonably believed to have bitten any person shall be seized and impounded for such a period of time as public health officer or physician may direct. If there is reasonable belief that the dog or other animal has rabies or another dangerous disease may order the immediate extermination of such animal by animal control officer, tribal police officer, or some other person in a humane manner.
4. Any person shall have the right to immediately destroy any dog or other animal engaged in the process of injuring or harassing livestock or other domestic or game animals or threatening or inflicting harm to any person, or inflicting serious harm to personal or Tribal property.

H. Animal Neighborhood Disturbance

The owner of a female dog or cat or other non-livestock animal in heat or when in season, shall take reasonable precautions to ensure that such animal is penned or enclosed in such a manner as to preclude other animals from attacking said female animal.

I. Dog Bites

The Nation may direct any animal owner or custodian of any animal that has bitten any person or other animal to comply with the following:

1. Surrender the biting animal to designated agent for isolation or impoundment for a period of time determined by Tribal Court or veterinarian at owner's expense;
2. If the animal isolated is not infected with rabies at the end of isolation period it may be picked up by its owner upon payment of any assessed fee, charge, or penalty, including fee for veterinary services by owner.
3. It shall be in violation of this code for the owner or custodian to fail to comply with the requirements set forth in this section.

J. Injury to Other Animal

If a resident's dog enters the property of another resident on the Nation and injures or causes the death of a pet, the owner or custodian of the dog shall be responsible for the loss and shall reimburse the owner of the injured pet the reasonable costs incurred as a result of the injury or death, as determined by the Judicial Branch or Tribal Court. If the injury or death of the pet was caused by an attack of multiple dogs, the owner of each dog shall be jointly liable for all reasonable costs incurred. If the Judicial Branch, or Tribal Court determines that the offending animal had previously caused injury or death to another domestic pet, the owner shall surrender the animal to the judicial Branch or Tribal Court and be responsible for the restitution to the injured party.

K. Offenses

1. Violation of any of the foregoing provisions of this Part shall constitute a Class B Civil Infraction.
2. Any person who cruelly injures, destroys, or poisons a dog, cat, or any other animal, except under the conditions authorized in this code, shall be guilty of a P.L. 280 offense and shall be reported to the appropriate authorities.

3. It shall be an offense for any person to abandon any live animal on the Reservation or to dispose of the carcass of any dead animal except in a place specifically set aside for such purposes by the Tribe and/or the U.S. Public Health Service.

Part 11. LIVESTOCK MANAGEMENT

A. LIVESTOCK COMMISSION

1. Appointment to be made by the Executive Branch.

There is hereby created a Livestock Commission which shall consist of three (3) members appointed by the Executive Branch with the concurrence of the Legislative Branch and shall hold office until removed. At least two (2) of the members of the Livestock Commission shall be cattle owners.

a. Term of Office

Department Members shall serve for a period of two (2) years.

b. Removal

The following shall constitute grounds for removal from the Livestock Commission:

- i. Any Commission Member who is convicted of a felony, theft or embezzlement in any jurisdiction while serving on the Livestock Commission shall be removed and such office shall be deemed vacant.

- ii. The Executive Branch may initiate the process for removal of any Commissioner that has missed more than three (3) consecutive meetings without good cause.

- c. The Executive Branch shall initiate a removal action and serve the Department Member subject to removal a "Notice of Removal" setting forth the grounds for his or her removal. The Notice shall also inform the Commissioner that the removal will be submitted to the Legislature for decision and that she or he

has a right to appear before the Legislature to present his or her defense and present evidence and witnesses on his or her behalf.

d. The removal action shall be submitted to the Legislature who will notify the Commissioner subject to removal of when the Legislature will be considering his or her removal. After reviewing all of the evidence, the Legislature will vote on whether to remove the Commissioner. Department Members may be removed by a majority vote of the Legislators present at any Legislative meeting in which a quorum has been established.

e. The final decision about whether a Commissioner is removed shall be made by the General Council. Upon approval by the Legislature, the removal action shall be placed on the agenda of the next Regular Council Meeting where a vote utilizing secret written ballots by a majority of the General Council Members in attendance at such meeting shall determine whether the subject is removed.

2. Authority.

The Commission shall have authority to advise the Executive Branch regarding the enforcement of the provisions of this Title and to recommend the issuance of appropriate rules and regulations, subject to approval of the Legislative Branch, for the conservation and protection of the land of the Iipay Nation of Santa Ysabel and for the control and management of livestock on the Iipay Nation of Santa Ysabel. The Commission shall refer all disputes relating to land or livestock to the Tribal Court or a court of proper jurisdiction.

3. Livestock Trespass.

Any person who recklessly allows their livestock of any species to trespass or stray on agricultural or residential lands of the Iipay Nation of Santa Ysabel, without attempting to rectify in a timely manner, shall be guilty of a violation and upon conviction thereof shall be assessed a penalty and any damages to property, and upon subsequent conviction of subsequent violations, shall be assessed a penalty plus costs, and may be ordered to pay damages to property and be subject to such other orders as the Tribal Court may direct. An infraction under this subsection is a Class C Civil Infraction.

4. Fencing Requirements

All residents of the Territory of the Iipay Nation of Santa Ysabel have the option to fence their yards. If livestock damages property within a yard that has been fenced, then the livestock owner must fix the damage or reimburse the resident the cost of the damages in a timely manner. All fences should be constructed of barbed wire with a minimum of Four (4) strands. "T" posts shall not be spaced greater than 12 feet apart. Fencing must meet these minimum requirements in order for livestock damages to be compensable to the property owner

B. BRANDING REQUIREMENTS

1. Necessity of Brand.

Every Tribal member owning livestock shall have and use brand on each animal; such brand shall be recorded in the office of the Livestock Commission. Cattle shall be branded with a hot iron brand, sheep shall be branded with a paint brand. Any unbranded cattle, excepting calves with a branded mother, shall be subject to seizure by any Tribal officer, or any livestock inspector and shall be handled and disposed of as an estray. An infraction under this subsection is a Class C Civil Infraction.

2. Brands - Recording, Evidence of Ownership.

No brands except such as are recorded under the provisions of this ordinance shall be recognized in law as evidence of ownership of the livestock upon which such brand may be used. It shall be the duty of all persons to brand newly acquired cattle with his duly registered brand as soon as practicable, notwithstanding the possession of a bill of sale. Nothing herein, however, shall be construed as relieving the owner of his duty to retain possession of any bill of sale.

3. Brands - Property Subject to Sale, Assignment and Descent.

Any duly registered brand shall be considered to be the personal property of the person and shall be subject to sale, assignment, transfer, devise and descent.

4. More Than One Brand Unlawful - Exception - Penalty.

It shall be unlawful for any owner of livestock to use more than one brand, except that lawfully acquired livestock carrying the previous owner's registered brand need not be rebranded if a valid bill of sale accompanies such livestock. The increase of such livestock shall be branded with the owner's registered brand, except if

prohibited by a mortgage or other lien. An infraction under this subsection is a Class C Civil Infraction.

5. Bill of Sale of Livestock - Duty of Exhibit - Violation- Penalty.

Any person who has purchased or received, or has in his possession any livestock either for himself or another, shall exhibit the bill of sale for the livestock at the reasonable request of any livestock inspector or other peace officer. Any person who fails to produce a bill of sale as required in this Act or is unable to exhibit other written evidence of ownership or legal possession shall, upon conviction, be guilty of a Class C Civil Infraction and further subject to such other orders of the Tribal Court.

6. Ownership - Possession.

If any duly authorized inspector shall find any livestock or carcasses in the possession of any person, branded or unbranded, and said person in charge or in possession of such livestock does not have a bill of sale or cannot furnish satisfactory proof of ownership or said inspector has good reason to believe said livestock or carcass was stolen, the Commissioner shall seize and take possession of same and retain possession until satisfactory evidence of ownership is produced or until such livestock or carcasses are disposed of as provided by this Code.

- a. **Officers May Stop Vehicles - Failure to Have Certificate - Arrest and Seizure.** Any Commissioner or Lipay Nation of Santa Ysabel law enforcement officer shall be authorized to stop any vehicle transporting livestock or the carcasses thereof, and demand from the person or persons operating said vehicle to show the certificate of brand inspection or other proof of ownership; and should any person or persons transporting said livestock or the carcasses thereof be unable to exhibit to such Commissioner or Tribal officer said certificate, said Commissioner or Tribal officer is authorized and empowered to arrest, without warrant, any person, or persons operating said vehicle and take possession of same any of the livestock or carcasses therein, and shall retain such possession until the person or persons operating such vehicle can produce satisfactory evidence that he or they, or the person or persons, firm or corporation for whom the same is being transported, is the lawful owner thereof, or until such livestock or carcasses are disposed of as hereinafter provided.
- b. **Sale of Carcasses to Prevent loss by Spoiling.** If said Commissioner or other officer shall deem it necessary to take, to prevent the loss of same by spoilage,

they are empowered and authorized to do so, retaining the sale price thereof in their possession to be disposed of as hereinafter provided.

- c. **Return to Owner - Sale of Livestock or Carcasses - Disposition of Proceeds.** If, within a period of ten (10) days, the ownership or said livestock or said carcasses is shown and established, said livestock or carcasses, or the proceeds from the sale thereof shall be delivered to said owner. If, however, within said period the ownership of said livestock or carcasses is not shown or established, then in the event the monies derived from the sale of said livestock or carcasses shall be paid to the Iipay Nation of Santa Ysabel.
- d. **Definition of Carcasses.** Whenever the word "carcass" is used, it means one or more carcasses or parts thereof, not less than one-quarter of a carcass.

Part 12. HUNTING

A. Purpose

The purpose of this Part is to establish rules governing hunting on the Santa Ysabel Reservation. The Legislature finds that the frequency of trespass by hunters on the Iipay Nation of Santa Ysabel has made the land dangerous to members of the Nation and some members have illegally allowed nonmembers to hunt within the Territory of the Nation. Originally game on the Iipay lands were reserved for "Enrolled Tribal Members Only", to ensure natural lifestyle as an Iipay Native, for survival of life and traditional culture.

B. Rules Governing Hunting on the Iipay Nation of Santa Ysabel

1. Enrolled members of the Iipay Nation of Santa Ysabel (INSY) may hunt within the Nation at any time of the year, with regard to respect and household needs.
2. Nonmember spouses may hunt within the Nation only when accompanied with an adult INSY tribal member.
3. Game by enrolled members may be removed from the Nation's Lands, in accordance with Tribal, State and Federal Fish and Game and regulations.

4. Game taken under the provisions of this Part is prohibited from being sold, traded or bartered with non-tribal members.
5. Enrolled members of the Nation under the age of fourteen (14) years of age must be accompanied by an enrolled adult member when hunting at all times.
6. Enrolled members of the Nation may have one hunting guest at a time, not to exceed 1x per season and only during a hunting season. In addition a tribal member must accompany any guest at all times when on the Santa Ysabel Reservation.
7. Hunting permits and game tags are not required for tribal members, but a safety course is recommended. Hunting permits, game tags, and hunting safety course are required for non-tribal members hunting on the Santa Ysabel Reservation.
8. The sponsoring Enrolled tribal member is responsible for his or her guest's behavior, actions and or any penalties acquired when visiting the Santa Ysabel Reservation.
9. Game weighing 20lbs. or more must be hunted with a center fire cartridge firearm or rifle. Modern Black powder firearms are allowed. Full metal jacket ammunition firearms are prohibited. Only well experienced tribal member hunters may use a 22 caliber rifle. Bow hunting is allowed anytime for INSY enrolled tribal members and only during bow season for non-tribal members.
10. All kills must be clean kills, determined by a head or heart shot, excluding foul game
11. Hunting from a vehicle is prohibited.
12. Spotlight hunting is prohibited.
13. Hunting is prohibited within ¼ mile of any household or business structures.
14. Hunting female deer for non-tribal members is allowed with a Doe Tag.
15. Trapping or baiting game is prohibited.
16. No animal may be killed for the sake of being killed, or used as target practice with exception of rodent or varmint control.

17. Individual non-member hunters are allowed 1 kill per visit, not to exceed more than 1x per hunting season for any game, (1 deer, 1 turkey). Smaller birds such as quail or dove are limited to 10 and pigeon limit is 5.
18. Hunting deer 1 year or younger is prohibited. Deer must be forked horned.
19. Hunting permit for non-tribal Indian guests are required, limited to one hunting guest at a time. Guests must be accompanied by an enrolled adult Iipay tribal member at all times. The sponsoring INSY tribal member shall be held legally responsible for any damages attributable to his/her guest.

C. Violations

1. The State of California has jurisdiction over offenses committed by or against Indians in the Indian Country pursuant to Public Law 280 enacted August 15, 1953 (18 USC 1162). Violations of the rules given in this Part should be reported to local Tribal, State or County law enforcement personnel.
2. Enrolled Tribal members are responsible for their guests at all time when visiting the Santa Ysabel Reservation. Enrolled tribal members may be prohibited from having hunting guests, or required to pay fines if Hunting rules in this Part are not honored.
3. A person found to be in non-compliance with provisions of this Part may be subject to civil suit in the Tribal Court. A person found by the Tribal Court to have violated this code (ordinance) or regulations shall be found to have committed a Class B Civil Infraction and may further be subject to loss of guest hunting privileges for a period of 1-5 years.

Part 13. Enforcement

It shall be the duty of the Officers of the Santa Ysabel Tribal Law Enforcement Department (herein "enforcement officers") to enforce this Code and all implementing rules and regulations.

A. Civil Citation

1. An enforcement officer has the authority to issue a civil citation if:
 - a. The infraction occurs in the presence of the enforcement officer; or
 - b. When the enforcement officer has reasonable cause to believe a civil infraction has been committed.
2. The enforcement officer shall issue all civil infraction no later than thirty (30) days from when the violation occurred.

C. Identification

A person who is reasonably suspected of committing a civil infraction and is stopped by an enforcement officer is required to identify himself or herself by providing the enforcement officer his or her name, 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.

D. Final Determination Unless Contested

A civil citation represents an official determination that a civil infraction has been committed. This determination is final unless the person contests it in a manner set forth in this Code.

E. Notice Requirement

The civil citation shall include the following:

1. A statement that the civil infraction is a non-criminal offense for which imprisonment is not an available sanction;
2. A statement listing the subsection of the Code that was violated along with a statement briefly describing the conduct of the person which lead to the violation;
3. A statement listing the monetary penalty imposed for the civil infraction and that the person may be noticed by separate letter that the penalty amount has increased after determination that the person has previous violations;
4. A statement on how the person may contest the infraction;

5. A statement that the person must respond to the citation within thirty (30) days from the date of service of the citation; and
6. 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 citation plus a sanction imposed by the Court for person's failure to appear.

F. 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.

G. Service of the Citation

1. The citation may be served on the person in the following manner;
 - a. Personal service; or
 - b. 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 place which is believed to give the occupant or owner actual notice of the civil citation by the enforcement officer.
2. Service is deemed effective on the date of the personal service or when the certified mail is either delivered or delivery is attempted. If the certified mail receipt is returned unsigned, then service shall be deemed effective on the date three days following deposit in the mail.
3. Where service of any notice required under this Code is effected in compliance with this Section and with due process the asserted failure of any person to receive the notice shall not affect the validity of any proceedings taken under this Code.
4. A copy of civil citation and, if applicable, the proof of service shall be filed with the Tribal Court within seventy-two (72) hours of issuance, excluding weekends

and holidays. If the Tribal Court within this timeframe does not receive the citation, the Tribal Court may dismiss the citation without prejudice.

H. 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 Code. All property utilized in violation of this Code is also subject to seizure and forfeiture by order of the Tribal Court. The Nation must return any property confiscated to its rightful owner unless the Tribal Court determines that the possession of the property is unlawful or could be deemed a risk to facilitate further violations of this Code, in which case it will become the property of the Nation.

Part 14. 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 check or money order in the amount of the civil fine to the Nation within thirty (30) days from the date the citation is served; or
2. Request a hearing by completing that portion of the civil citation form and submitting the request to Tribal Court, per the instruction on the civil citation, within thirty (30) days from the 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 Tribal Court shall enter a default judgment against the person, and impose additional sanctions for failing to respond.

C. Hearing

1. A hearing shall be scheduled within thirty (30) days from the Tribal Court's receipt of a Request for Hearing. The Tribal Court shall provide a written Notice of Hearing to the person requesting the hearing (herein "Petitioner") and the Santa Ysabel Law Enforcement Department. The Notice of Hearing shall state the date, time and place of

hearing and shall be served at least fifteen (15) days prior to the date of the hearing. The Notice of Hearing to the Law Enforcement Department shall include as an attachment a copy of the Petitioner's completed Request for Hearing form.

2. If the enforcement officer submits an additional written report concerning the civil citation to the 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 enforcement officer may request one (1) continuance for any reason, provided that Tribal Court is given the request for a continuance at least forty-eight (48) hours in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than forty five (45) days after the hearing request was filed. A request for continuance made less than forty-eight hours before the scheduled hearing may be granted by the Tribal Court Judge based upon a showing good cause
4. All hearings shall be closed to the public unless the enforcement officer and/or the tribal representative agree that the hearing will be open. 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 subpoenaing of witnesses and documents shall be permitted as authorized by tribal law or the Tribal Court's Rules of Court. The 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 the enforcement officer shall constitute presumptive evidence of the respective facts contained in those documents.
6. The Tribal Court may continue the hearing and request additional information from the enforcement officer or the Petitioner of the civil citation prior to issuing a written decision.

D. Tribal Court Decision

1. After considering all the testimony and evidence submitted at the hearing, the Tribal Court Judge shall issue a written decision to uphold or dismiss the civil citation and the reasons for that decision, including written findings on each

violation. The decision of the Tribal Court Judge shall be issued within ten (10) calendar days following completion of the hearing.

2. If the 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 civil penalties in an amount not to exceed the maximum provided in the schedule of civil penalties adopted by this Code. In determining the amount of the civil penalty, 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 violator;
 - 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 civil penalty on the condition the Petitioner does not commit any other violations of this Code and complies with all Tribal Court orders relating to the violation during a specified period not to exceed one (1) year;
 - d. Issue such other order as may be deemed fair and just by the Tribal Court.
3. If the Tribal Court Judge finds that a request for hearing is completely without merit, he or she may hold the Petitioner liable for, and order Petitioner to pay, the Tribe's reasonable fees and costs, including attorney's fees.
4. If the Tribal Court Judge determines the civil citation should be upheld, he or she shall set forth in the decision the payment schedule for the civil penalty as well as for payment of any administrative costs assessed under Subparagraph C above. Late payment charges shall accrue and be payable in the amount and by the terms specified in the schedule of civil penalties.

5. If the Tribal Court Judge determines the civil citation should be dismissed, he or she shall issue a decision dismissing the civil citation.
6. The Petitioner and the enforcement officer shall be served with a copy of the decision within seven (7) calendar days of its issuance.
7. The decision of the Tribal Court Judge shall be final upon service on the Petitioner and not subject to further review.

D. Collection

1. In any case where a person has been found to have committed a civil infraction and a civil penalty has been assessed, the person has thirty (30) days to pay the civil fine. For good cause shown, the Tribal Court may extend the time for payment or approve an installment plan. Parent(s), guardians, or any adult responsible for the care of minor (a person under the age of 18) are liable for the civil fine of a minor.
2. If the person has not paid the civil fine within the time allotted by the Tribal Court, the Court may take any and all actions necessary to collect the civil fine, including but not limited to the following:
 - a. Refer the civil fine to a collection agency or other collection institution;
 - 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 violator's wages;
 - c. Upon written request from the Tribe, issue an order directing the appropriate tribal official, to garnish the violator's tribal per capita distribution in 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 issues the violator wages or money.
 - e. Exclude the person from the Santa Ysabel Reservation until such time the fine has been paid.

Part 15. MISCELLANEOUS

A. Severability

If any provision of this Code, or its application to any person, legal entity or circumstance is held invalid, the remainder of the Code, or its application of the provision to other persons, legal entities or circumstances, shall not be affected.

B. Sovereign Immunity

The sovereign immunity of the Nation is in no manner waived by this Code, by any action of its Tribal Law Enforcement Officers or Security Officers or any of the employees of the Nation acting pursuant to this Code.

C. Amendments

This Code may be amended by the Santa Ysabel Legislature through the Legislative Process.

