

# RAMONA BAND OF CAHUILLA

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"A SOVEREIGN NATION"

**Date:** May 1, 2024

**From:** Ramona Band of Cahuilla

**To:** Prospective Bidders

**Re:** Notice of Amendment # 2 to Bid Package ("Notice") for New Housing Construction of up to 6 Single Family Homes on the Ramona Indian Reservation in Anza, CA 92539, issued April 29, 2024, Solicitation/Project Reference RBC-2024-01 ("Project").

This Notice serves to amend the Bid Package for the above referenced Project to add new clause 10 to the "Supplementary Conditions of the Contract" which is found at Section IV ("Contracting Documents"), Exhibit C, to expressly require Contractor and subcontractor(s) compliance with the laws of the Ramona Band of Cahuilla, which include but are not limited to the following ordinances:

- Trespass, Exclusion & Expulsion Ordinance,
- Air Quality Ordinance
- Cultural Resources Protection Ordinance
- Environmental Enforcement Ordinance
- Mineral Resource Protection Ordinance
- Solid Waste Disposal Ordinance
- Wildlife protection Ordinance

Further, the amendment to the Bid Package adds a new Section VIII titled "Other Tribal Ordinances Applicable to the Project" containing these ordinances. This Notice does not change any other reference in the Bid Package as to any other laws applicable to the project, e.g., federal and state.

Copies of the above referenced ordinances of the Ramona Band of Cahuilla are attached to this Notice, which was posted May 1, 2024, on the Owner's website at <https://ramona-nsn.gov/new-construction-project/> under the heading "Notices of Amendments and Clarifications to Bid Package," and appears at the hyperlink titled "2024-05-01-Notice 02 to Bidders-RBC-2024-01-Applicable Tribal Ordinances." The amendments described in this Notice have also been incorporated into the amended Bid Package, which is available for download from the same page of the Owner's website noted herein at the hyperlink "Amended Bid Package (issued May 1, 2024)."

Any questions about this Notice are to be directed in writing to the Point of Contact/Contracting Officer for this Project listed on the Bid Package's cover page.

-- END --

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OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

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**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit A  
Air Quality Ordinance

# **RAMONA BAND OF CAHUILLA**

## **AIR QUALITY ORDINANCE**

### **I. PURPOSE**

The purpose of this ordinance is to protect quality of the air on the Ramona Reservation. This includes: establish air quality standards for the Reservation; reducing and controlling the discharge of pollutants into the air; and establishing an air quality program that may place restrictions on certain activities on the Reservation to lessen air pollution caused by such activities.

### **II. AUTHORITY**

This Ordinance shall extend to all persons and activities on the Ramona Reservation that threaten the health, safety and welfare of those persons on the Reservation and/or threaten the Tribe's natural resources, which shall include wildlife, land, water, and air.

### **III. DEFINITIONS**

1. "Air contaminant" means fumes, smoke, dust, particulate matter, vapor, gas or any combination thereof, but does not include water vapor or steam condensate.
2. "Air contamination source" means any source whatsoever, at, from or by reason of which there is emitted, discharged, or creates the atmosphere any air contaminant.
3. "Ambient air" means the surrounding or outside air.
4. "Ambient air quality standards" mean the specified concentrations and durations of air pollutants established either by the Tribe or the federal government.
5. "Applicant" means any person who has filed an application with the Tribal Environmental Department for a variance under this Ordinance.
6. "Mitigation" means a measure taken to reduce adverse impacts on the environment.
7. "Person" means any individual, corporation, partnership, agency, municipality, commission, or department, the Tribe or other federally-recognized tribal government.

### **IV. AIR QUALITY STANDARDS**

The Tribal Environmental Department shall be responsible for adopting, promulgating, amending and/or modifying such standards for quality of ambient air as may be appropriate or necessary to carry out the purposes of this Ordinance, including but not limited to:

1. Standards which describe the maximum air concentrations of specifically described air contaminants that can be tolerated, consistent with the protection of the good health of the public

at large; such standards may differ for different parts of the Reservation as may be necessitated by variations in altitude, topography, climate or meteorology;

2. Standards which describe the air quality goals that are to be achieved by control programs within specified periods of time, such standards may be either Reservation-wide or restricted to specified control areas. Air quality standards may include certain degrees of visibility that may be tolerated and prescribe dates and times that certain activities may occur to prevent a decrease in visibility;

3. Standards which describe varying degrees of contamination of ambient air.

4. The standards set by the Environmental Department shall be at least as stringent as the National Ambient Air Quality Standards.

## **V. AIR EMISSION CONTROL REGULATIONS**

A. The Environmental Protection Department shall adopt and promulgate emission control regulations which require the use of effective practical air pollution controls for each significant source, potential source and type of source of air contamination throughout the Reservation and thereafter may modify such regulations from time to time. In the formation of each emission control regulation, the Department shall take into consideration the following:

1. The tribal policy regarding air pollution as set forth above;

2. Federal recommendations;

3. The degree to which the concentrations of certain types of contaminants in certain portions of the Reservation require that emissions control regulations be more stringent than in other portions of the Reservation;

4. The degree to which any particular type of emission is subject to treatment, the availability and feasibility of control, techniques and the extent to which the emission to be controlled is significant;

5. The continuous, intermittent, or seasonal nature of the emission to be controlled;

6. Whether the emission control regulation should be applied throughout the Reservation or only in a specific portion;

7. The need for specification of safety precautions that should be taken with respect to any source or potential source or type of source of air contamination.

B. Such emission control regulations may include, but shall not be limited to regulations pertaining to:

1. Visible pollutants;

2. Particulates;

3. Sulfur, oxides, sulfuric acids, hydrogen sulfide, nitrogen oxides, carbon oxides, hydrocarbons, fluorides, and any chemical substances;

4. Odors;
5. Open burning of incidental refuse, open burning at dumps, open burning for agricultural purposes, open burning of junk automobiles and any other open burning activity;
6. Organic solvents;
7. Photochemical substances; and
8. Toxic gases.

## **VI. AIR CLASSIFICATION**

All areas on the Reservation are designated as attainment or unclassified pursuant to this Ordinance and section 107 of the Clean Air Act and shall be class II areas, as defined under Part C of Title I of Clean Air Act.

## **VII. AIR QUALITY MONITORING, VIOLATIONS AND MITIGATION**

1. The Environmental Protection Department will, in conjunction with the South Coast Air Quality Control District and federal Environmental Protection Agency, monitor the air quality on the Reservation.

2. If it is determined, based on air quality monitoring or other investigation by the Environmental Protection Department, that a person is causing or about to cause a violation of the Tribe's, state's or federal's air quality standards, the Environmental Department may seek from the Tribal Council an immediate order to cease and desist.

3. The order shall be served on the person along with a citation as provided for under the Tribe's Environmental Enforcement Code. The person shall be restrained from proceeding or continuing with his or her activity until such time the person and the Environmental Protection Department can develop a mitigation plan that will prevent the continuing violation of the Tribe's air quality.

4. Any person who knows or has reason to know that his or her activities may cause of violation of the Tribe's air quality standards may request from the Environmental Protection Department a variance from the standard. The variance may be granted if it is short in duration and Environmental Protection Department determines that there are other mitigating factors making the variance necessary. The Environmental Department shall make every effort to mitigate the impact to air quality in granting a variance.

## **VIII. BURNS ON THE RESERVATION (Reserved)**

**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit B  
Cultural Resources Protection Ordinance

# **RAMONA BAND OF CAHUILLA CULTURAL RESOURCES PROTECTION ORDINANCE**

## **I. GENERAL PROVISIONS**

### A. Purpose of this Ordinance.

The purpose of this Ordinance is to affirm the authority and commitment of the Ramona Band of Cahuilla to protect and promote the traditional cultural relationship between the Tribe and its natural environment. To this end, the Ordinance defines the cultural sites and resources of the Ramona Band of Cahuilla, and establishes environmental management practices to protect these cultural sites and resources.

### B. Authority to Enact Ordinance.

This Cultural Resources Protection Ordinance is enacted under the inherent sovereign authority and in accordance with the Customs and Traditions of the Ramona Band of Cahuilla.

### C. Applicability of Ordinance.

This Ordinance is intended to protect the natural environment of the Ramona Reservation in which cultural sites and resources may be located to the fullest extent allowed by law. The provisions of this Ordinance are intended to and shall apply to all persons that enter or remain within the boundaries of the Reservation, all activities taking place within the Reservation and other traditional Tribal territory (see Area of Interest defined below), and all activities that otherwise adversely impact the natural environment in which cultural sites and resources of the Ramona Band of Cahuilla may be located.

## **II. STATEMENT OF POLICY**

Cultural resources and the sites in which they are located constitute a critical component of the tradition, history and culture of the Ramona Band of Cahuilla. These resources and sites include, but are not limited to, burial and ceremonial sites, habitation sites, gathering areas, and other naturally occurring or human-made artifacts that reflect the traditional lifeways of the Cahuilla people, and comprise a vital aspect of the natural environment that must be protected from disturbance to the greatest extent possible. This is the case with respect to cultural resources and sites both located within the boundaries of the Ramona Indian Reservation and also located outside the Reservation but within the Ramona Band's Area of Interest depicted on the attached map.

## **III. PROHIBITED ACTS**

- A. No person may disturb, damage, alter, deface or destroy any cultural resource or the site in which it is located.
- B. No person may excavate or remove a cultural resource from its site.
- C. No person may sell, transfer, transport or receive any cultural resource that was excavated or



removed from the Ramona Indian Reservation or the Ramona Band's Area of Interest without the express written permission of the Ramona Band.

- D. No person that inadvertently disturbs a cultural resource or the site in which it is located while engaged in an otherwise lawful activity may continue the activity or the disturbance of any cultural site or resource without first complying with the notification procedures set forth below and obtaining permission from the Tribe to resume the activity.
- E. No person may engage in any activity requiring a Tribal permit, as identified in section IV below, without first obtaining the needed permit.
- F. No person engaging in any lawful activity subject to a Tribal permit may violate any condition of the permit.
- G. No person may reveal the nature or location of any cultural resource or the site in which it is located without the express written permission of the Ramona Band of Cahuilla.

#### **IV. PERMITTING**

##### **A. Actions Requiring a Permit.**

Any person seeking to undertake any of the following actions must obtain a permit from the Ramona Band of Cahuilla before commencing any work:

- (1) Development of any kind that alters the physical environment;
- (2) Traditional tribal cultural activities, social or educational programs;
- (3) Cultural resource or archaeological surveys and exploratory excavations.

##### **B. Development Permits.**

Prior to obtaining a permit for development that alters the physical environment, a project proponent must, among other things, comply with the provisions of the Tribal Environmental Review Ordinance. Such compliance must include providing a description of the proposed project and the boundaries of the proposed project area, the identification of any cultural sites and resources within the proposed project area, and plans to either avoid or mitigate for any impacts to such sites and resources. The identification of sites and resources and avoidance and/or mitigation measures must be approved by the Cultural Resources Department prior to any Tribal decision on the proposed project. Any conditions to development for the protection of the natural environment in which cultural sites or resources may be found must be incorporated into any Findings issued in compliance with the Tribal Environmental Review Ordinance and any permit that is issued for the development project. Such conditions may include the need for one or more cultural monitors to be present during ground disturbing activities associated with the development project.

C. Traditional Tribal Activities, Social or Educational Programs.

Any person, including a Tribal member, governmental agency or department, that seeks to undertake a traditional tribal activity or social or educational program that involves the viewing of cultural sites or resources, the sharing of information regarding cultural sites or resources with third parties, or the collection of any cultural resource materials for traditional purposes, must obtain a permit from the Cultural Resources Department. The Department shall make a form of application available to any interested person. The permit shall include such conditions as the Cultural Resources Department, in consultation with the Tribal Council, deems appropriate, including the execution of such confidentiality agreements by third parties as may be necessary to protect from disclosure the nature and location of cultural sites and resources.

D. Surveys and Exploratory Excavations.

The Ramona Band of Cahuilla may from time to time request that a professional survey or exploratory excavation be undertaken, or grant permission for such activity as necessary to comply with the Tribal Environmental Review Ordinance. In such an event, the professional proposing to undertake the survey or exploratory excavation must obtain a permit from the Cultural Resources Department utilizing the procedures and subject to such conditions as are referenced in section C above.

E. Exemptions

The Tribal Council of the Ramona Band of Cahuilla may, in its discretion and for good cause, exempt an emergency action or other activity from the permitting requirements set forth in this section. The scope of the exempted activity and the reason for the exemption shall be documented by the Tribal Council in writing.

**V. DISCOVERY AND NOTIFICATION PROCEDURES**

A. Requirement to Halt Activity

Upon the discovery of a cultural resource or site by any person, all activity in the area of the discovery must cease pending full compliance with all the requirements of this section.

B. Notification

Any person that discovers a cultural resource or site, during the course of a permitted activity or otherwise, must immediately notify the Cultural Resources Department of the discovery. The Cultural Resources Department will make available a written form of notice for use by permittees, Cultural Monitors and others.

C. Investigation

The Cultural Resources Department shall conduct an investigation into the nature of the cultural resource or site and develop a written report that it shall present to the Tribal Council for consideration at the earliest opportunity.

D. Disposition of Cultural Resources

The Tribal Council shall determine the disposition of each cultural resource or site and document such determination in writing. The determination shall be added to permit conditions applicable to activities in the area of the cultural resource or site if appropriate.

E. Authority to Resume Activity

The Tribal Council shall determine, based on the nature of the cultural resource or site, whether and under what conditions activity may resume in the area of its discovery, and shall document such determination in writing.

## VI. COMPLIANCE AND ENFORCEMENT

### A. Compliance Assistance and Civil Penalties

- (1) If a person is found to have committed any act or omission in violation of sections III, IV or V above, the person may be subject to one or more of the following civil penalties:
  - (a) civil fine of up to \$5,000 per violation
  - (b) restoration order
  - (c) abatement order
  - (d) community service
  - (e) personal property forfeiture
  - (f) reimbursement for tribal restoration and related costs
  - (g) cancellation of contract or lease
  - (h) exclusion from the Reservation
- (2) Compliance assistance may take the form of education, training, or financial or other assistance that aids a person to achieve and maintain compliance with tribal law, and may be an appropriate alternative to the imposition of civil penalties in the case of a person that desires to comply but is not reasonably able to do so without such assistance.
- (3) If the imposition of one or more civil penalties is found to be appropriate, these guidelines should be followed:
  - (a) The penalty should be proportionate to the severity of the violation and the harm suffered by the Reservation environment as a result of the violation
  - (b) Penalties should be imposed progressively (for example, a second offense would receive a more severe penalty than a first offense)
  - (c) Violations based on acts (or omissions) that are intentional or willfully disregard tribal law should receive more severe penalties than acts (or omissions) that are accidental or based on the violator's inability to reasonably comply with tribal law
- (4) Penalties will be assessed, as appropriate, after thorough investigation of the matter, due process and an opportunity for hearing, and in accordance with the following provisions.

**B. Authority of Tribal Cultural Resources Department**

- (1) To monitor activity within the Reservation and elsewhere within the Ramona Band's Area of Interest and receive reports of potential violations of this Ordinance.
- (2) To conduct investigations of observed or reported violations and make preliminary determinations as to the existence and extent of any violations of this Ordinance.
- (3) To issue written Notices of Violation, Cease & Desist Orders and Abatement Orders, as appropriate, to Person(s) believed to have committed any violation(s) of this Ordinance
- (4) To make recommendations as to the appropriate resolution of any violations under this Ordinance, including compliance assistance or civil penalties, in accordance with section A above.

**D. Authority of the Tribal Council**

- (1) To conduct hearings if believed necessary or requested by an alleged violator, or otherwise thoroughly review the record to determine if a violation has occurred and if the alleged violator committed it.
- (2) To render decisions as to the existence of any violation(s) and to order, in accordance with section A above, any of the following dispositions:
  - (a) compliance assistance in accordance with section V.A(2) above
  - (b) assessment of penalties in accordance with section V.A(1) above
  - (c) initiation of a civil action against the violator(s) in any court of competent jurisdiction
  - (d) referral of the matter to federal, state or local authorities for criminal prosecution

**E. Requests for Reconsideration**

- (1) Any person that has been found to have committed a violation and has been assessed a civil penalty may request reconsideration of such decision by the Tribal Council. To be effective, the request for reconsideration must be made in writing within thirty (30) days after the person received written notice of the decision.
- (2) The decision of the Tribal Council on a request for reconsideration or, if none is timely made, the decision of the Tribal Council made under section D(2) above, shall be final and binding.

**VII. CULTURAL RESOURCE MONITORS**

**A. Permit Requirements**

Upon the recommendation of the Cultural Resources Department, the Ramona Band of Cahuilla may require a permittee to retain one or more Cultural Resource Monitors of the Tribe's choosing to be

observe permitted activities and ensure compliance with permit conditions related to the protection of the environment in which cultural resources and/or sites may be located.

**B. Training and Certification Program**

The Cultural Resources Department shall develop and implement a program for the training and certification of Tribal Resource Monitors.

**VIII. COORDINATION AND COOPERATION WITH OTHER GOVERNMENTAL AGENCIES**

It is the intent of the Ramona Band of Cahuilla to establish and maintain cooperative working relationships with other governmental agencies that have jurisdiction over geographical areas of mutual interest to protect the environment in which cultural resources and /or sites may be located. The following mechanisms shall be employed to implement this intent.

**A. Cooperation with Other Governmental Agencies**

The Cultural Resource Department shall cooperate to the fullest extent possible, in keeping with the best interests of the Ramona Band of Cahuilla, with federal, tribal, state and local governmental offices or agents in order to ensure the maximum protection of the environment in which cultural resources and/or sites may be located.

**B. Interagency Agreements**

Subject to the approval of the Tribal Council, the Cultural Resources Department will encourage and facilitate the development of written agreements between the Ramona Band of Cahuilla and federal, tribal, state and local governmental agencies to promote the protection of the environment in which cultural resources and/or sites may be located.

**C. Coordination and Consistency with the Laws and Policies of Other Governmental Agencies**

To the best of its ability, the Ramona Band of Cahuilla will conduct and permit or exempt activities under this Ordinance consistent with those laws and policies of federal, tribal, state and local governmental agencies that govern the protection of cultural resources and/or sites, and the environment in which they may be located.

**D. Government-to-Government Consultation with Other Governmental Agencies**

To facilitate government-to-government consultation with federal, tribal, state and local governmental agencies regarding the protection of the environment in which cultural resources and/or sites may be located, the Ramona Band of Cahuilla shall make available to those agencies information regarding its consultation protocols, including triggering issues or events and procedures.

**IX. SOVEREIGN IMMUNITY**

Nothing in this Ordinance is intended to, nor shall it be interpreted to, effectuate a waiver of the sovereign

immunity of the Ramona Band of Cahuilla from unconsented suit.

**X. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its adoption by the Tribal Council and shall remain in effect unless and until it is repealed or amended by the Tribal Council.

**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit C  
Environmental Enforcement Ordinance

**RAMONA BAND OF CAHUILLA**  
**ENVIRONMENTAL ENFORCMENT ORDINANCE**

**TITLE I. GENERAL PROVISIONS**

**§ 101. Exercise of Authority**

The Ramona Band of Cahuilla is a sovereign Indian Tribe with jurisdiction over the Ramona Indian Reservation;

The Ramona Band of Cahuilla, 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 Ramona Indian Reservation; and

The Ramona General Council, is vested with the authority to enact ordinances protecting the health, safety, and general welfare of tribal members and non-Indians who are guests or reside on the Ramona Indian Reservation, as well as, to protect the natural resources of the Ramona Indian Reservation.

**§ 102. Ramona Tribal Council Findings and Declarations.**

The Ramona Tribal Council finds and declares as follows:

- (a) it is important to protect natural resources on the Ramona Reservation;
- (b) it is important to protect health, safety and welfare of members, non-members and guests;
- (c) it is important to comply with Indian Civil Rights Act ("ICRA"), 25 U.S.C. § 1301 et seq.;
- (d) it is important to have tribal environmental enforcement procedures consolidated under one Ordinance;
- (e) it is important to identify what tribal department is responsible for implementing tribal environmental laws;
- (f) important to provide procedures for environmental enforcement.



**§ 103. Short Title**

This Ordinance shall be known as the “Ramona Band of Cahuilla Environmental Enforcement Ordinance”.

**§ 104. Effective Date.**

The provisions of this Ordinance shall become effective upon adoption by the Ramona General Council and shall be applicable to all existing and future tribal environmental ordinances, unless said ordinances have specific procedural and fine provisions set forth in said ordinance.

**§ 105. Definitions.**

Unless otherwise provided herein the following definitions shall apply throughout this Ordinance and to all the ordinances subject to this Ordinance:

- (a) "BIA" means the Bureau of Indian Affairs, an agency under the Department of the Interior of the United States of America;
- (b) "Civil Infraction" means a violation of tribal law as set forth in a tribal ordinance.
- (c) "Person" means any tribal member, non-member Indian or non-Indian individual, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- (d) "Ramona Band" means the Ramona Band of Cahuilla, a sovereign Indian Tribe, which is recognized as such by the federal government of the United States of America. Reference to “Tribe” in any existing or future environmental ordinance shall mean the “Ramona Band”;
- (e) “Ramona Environmental Protection Agency ” or “REPA”, is a department of the Ramona Band that is responsible for the implementation of the Ramona Band’s environmental ordinances unless otherwise specified;
- (f) "Ramona Environmental Enforcement Ordinance" means any tribal ordinance that is or was enacted by the Ramona Band for the protection and preservation of tribal resources and the tribal environment.
- (g) “Ramona Tribal Council ” or “Tribal Council ” is the five member committee established by the Tribe’s custom and tradition. The Tribal Council shall act as the judicial branch of the Tribe to hear and decide violations of the Tribe’s environmental ordinances.

**§ 106. Severability**

If any provision of this Ordinance, or its application to any person or circumstances, is determined invalid, such determination shall not invalidate any other provisions or applications of this and to this end, the provisions of this Ordinance are severable.

**§ 107. Amendments.**

This Ordinance may be amended from time to time by the General Council .

## TITLE II. RAMONA ENVIRONMENTAL PROTECTION AGENCY

### **§ 201. Establishment of Ramona Environmental Protection Agency**

The General Council hereby establishes the Ramona Environmental Protection Agency (“REPA”). The REPA shall be administered by an Environmental Director, who will be selected and hired by the Tribal Administrator or the Tribal Council. The Environmental Director shall report to the Tribal Administrator and directly to the Tribal Council upon request.

### **§ 202. Duties and Responsibilities.**

The duties and responsibilities of the REPA are as follows:

- (a) Enforcement of Ordinance. Enforce all provisions of this Ordinance and the all tribal environmental ordinances in conjunction and/or with applicable federal and other tribal agencies, unless otherwise specified;
- (b) Coordinate with Other Agencies. Coordinate and work with appropriate tribal departments, and the environmental enforcement agencies of the federal government when appropriate and where there is concurrent enforcement jurisdiction;
- (c) Development of Programs. Develop, implement, and conduct environmental inspection, enforcement, and training programs;
- (d) Record Keeping. Keep and maintain records of its inspection, enforcement, and training programs.
- (e) Consultation with Health Agencies. Consult with appropriate health agencies on environmental matters that may affect the health, safety and welfare of the persons on the Ramona Reservation.

### TITLE III. ENFORCEMENT OF RAMONA ENVIRONMENTAL ORDINANCES

#### § 301. Enforcement Agency.

REPA, in cooperation with federal environmental and health agencies, is hereby designated as the enforcement agency entrusted with the duty and responsibility of ensuring that this Ordinance and existing and future environmental ordinances are complied with.

#### § 302. Enforcement Actions.

##### (a) Complaints.

Any person may file a signed, written complaint with the REPA alleging a violation of a tribal environmental ordinance. Given the nature of the alleged complaint, REPA may investigate and prepare a written report setting forth the findings of the investigation. All complaints will be held in confidence by the REPA.

A complaint may also be initiated by the REPA upon its own independent observation and investigation.

##### (b) Notice of Violation.

After completing its investigation and determining that there has been a violation of a tribal environmental ordinance or regulation, the REPA shall file a "Notice of Violation" with the Tribal Administrator and serve the person responsible for the violation a copy of the REPA's investigative report and the "Notice of Violation". The "Notice of Violation" shall set forth:

- (i) the specific environmental violation and the penalty for the violation;
- (ii) if applicable, what actions the person must take to correct the violation;
- (iii) if applicable, the time frame for the corrective action;
- (iv) if applicable, the complaint will be filed with the Tribal Council should the person fail to take corrective action;
- (v) if applicable, the penalty that the person will be subject to should she or he fail to take corrective action; and

(vi) that the person has 5 working days from the date she or he receives the "Notice of Violation" to file a written "Request for Hearing" pursuant to Section 303 of this Ordinance if s/he contests the findings of the REPA.

The "Notice of Violation" may be personally served on the person (on or off the reservation), posted at his or her property, or sent certified mail by REPA. After service has been completed, a "Proof of Service" shall be prepared by the serving officer/person setting forth the time, date, manner of service and signed by serving officer/person.

(c) Emergency Orders.

In all cases where the REPA determines, based on available evidence, that a condition exists that is or will cause immediate harm or injury to persons on the Ramona Reservation or cause immediate damage or destruction of tribal natural resource (i.e. land, air, water), the REPA shall immediately file a Motion for an Emergency Order with the Tribal Council. The Tribal Council shall, within 24 hours but in no case more than 72 hours of the filing of REPA's Motion, either grant or deny the Motion. If the Motion is granted, the Emergency Order will authorize the REPA to take immediate remedial action to prevent harm, injury or impact to persons on the Ramona Reservation or tribal natural resources. Upon the issuance of such an Emergency Order, the REPA shall act pursuant to the Order and also serve the Order, if possible, on the person responsible for causing the threatening condition and/or the property owner, assignment holder, assignee, lessee, allottee, or other person in possession and control of the property where the threatening condition is located. The Emergency Order shall provide that the person being served may file a "Request for Hearing" pursuant to Section 303. The filing of a "Request for Hearing" shall not stay the enforcement of the Emergency Order.

**§ 303. Request for Hearing and Hearing Process**

(a) Request for a Hearing.

Any person served with a "Notice of Violation" may contest the findings of the REPA by filing a "Request for Hearing" with the Tribal Council within 5 working days from receipt of the "Notice of Violation". The "Request for Hearing" shall set forth the grounds upon which the person (herein "Respondent") contests the "Notice of Violation". Upon receipt of the "Request for Hearing" the Tribal Council shall schedule the matter for hearing as soon as possible but no more than 20 calendar days from when the Request is received by the Tribal Council. The Tribal Council shall issue and serve a "Notice of Hearing" to the Respondent and the REPA setting forth the hearing date, time, location and that the Respondent may bring witnesses, have a representative at his/her own expense and submit any documents relative to his/her case. The "Notice of Hearing" may be served in the same manner as provided for under Section 302 (b).

Either the REPA or the Respondent may request that the hearing date be changed by filing a request with the Tribal Council . The Tribal Council may grant one (1) request to change the hearing date upon a showing of good cause. Any subsequent requests for a continuance of the hearing will be granted by the Tribal Council only upon a stipulation of the parties.

(b) Hearing Before the Tribal Council

At the hearing, the REPA may be represented by legal counsel. REPA shall present the Tribal Council with its investigation report and other documents relied upon in finding that there has been a violation of a tribal environmental ordinance. The REPA may also call witnesses to testify in support of its finding that a violation has occurred. The Respondent shall be permitted to question REPA representatives and witnesses.

After the REPA has completed its presentation, Respondent shall present his/her oral and/or written evidence. All evidence must be relevant to the violation set forth in the "Notice of Violation". REPA representatives shall be permitted to question the Respondent and his/her witnesses.

All hearings before the Tribal Council shall be conducted in fair and orderly manner. Hearings before the Tribal Council shall be civil in nature, informal and may be subject to rules and procedures as may from time to time be prescribed by the Tribal Council.

At the close of Respondent's presentation, the Tribal Council, may either issue a decision at that time or take the case under advisement. In all cases the Tribal Council shall evaluate all of the evidence and testimony and render a decision on whether the Respondent has violated a tribal environmental ordinance. The Tribal Council shall issue its written decision setting forth its finding within 10 days from the date of the hearing and the decision will be served on the Respondent and the REPA. If the Tribal Council finds that the Respondent has violated a tribal environmental ordinance, the decision shall order the penalty for such violation and/or other such relief requested by the REPA and set forth under §305. All decisions of the Tribal Council shall be final.

**§ 304. Failure To Take Remedial Action.**

If tribal member is served with "Notice of Violation" and fails to take the corrective action as set forth in the "Notice of Violation" and/or fails to file a timely "Request for Hearing", the REPA shall submit a written "Request for Garnishment" to the appropriate Tribal Department requesting that the amount of the fine for the violation be withheld from the tribal member's per capita payment.

If the REPA seeks relief other than or in addition to a fine, the REPA may file a "Request for Tribal Council Order" as provided for below. If the violator is not a tribal member

(non-member Indian or non-Indian) and has not taken corrective action after being properly served with a "Notice of Violation" or filed a "Request for Hearing", the REPA shall file with the Tribal Council, a "Request for Tribal Council Order." With the "Request for Tribal Council Order" the REPA will also file its investigation report and other relevant documents or evidence related to the violation, a copy of the "Notice of Violation", and "Proof of Service" that the violator was served with "Notice of Violation." If the Tribal Council finds that the person named in the "Request for Tribal Council Order" was properly served, failed to take corrective action as ordered and/or failed to timely "Request a Hearing", the Tribal Council shall issue an Order granting some or all of the relief requested by REPA.

In all cases under this subsection, the REPA will prepare and file with the Tribal Administrator an "Action Report" informing him/her of the outcome of the case and final disposition.

**§ 305. Civil Penalties.**

If the Tribal Council finds a person has violated a tribal environmental ordinance and the ordinance does not contain a specified fine, the Tribal Council shall determine what penalty shall be imposed on the person. The Tribal Council may apply the following penalties:

- (a) A fine of no less than \$100.00 and no more than \$15,000;
- (b) A cease and desist order; and/or
- (c) An order directing the person to take remedial action in a specified period of time; and/or
- (d) An order directing the person to pay the costs of any and all remedial actions taken by the Tribe to correct the violation; and/or
- (e) Costs and legal fees to the prevailing party; and/or
- (f) Any and all other relief the Tribal Council determines is necessary and appropriate.

**§ 306. Enforcement of Tribal Council Order.**

Should a person, who has been found to have violated a tribal environmental ordinance under Section 304 or 305, fail or refuse to comply with an Order issued by the Tribal Council, the REPA shall seek enforcement of said Order through any and all legal means available to the REPA. All persons having violated a tribal environmental ordinance shall be responsible for all costs and legal fees incurred in the enforcement of a Tribal Council order. If the person who has violated a tribal environmental ordinance is a tribal member of the Ramona Band, his/her per capita distribution payment may be garnished to satisfy any penalty assessed by Tribal Council.

**§ 307 Sovereign Immunity**

Nothing in this Ordinance shall be deemed to have waived the Tribe's, its departments, employees, officers, agents or other tribal entities' sovereign immunity.



**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit D  
Mineral Resource Protection Ordinance

**RAMONA BAND OF CAHUILLA  
MINERAL RESOURCE PROTECTION ORDINANCE**

**I. GENERAL PROVISIONS**

**A. Purpose**

The purpose of this Ordinance is to ensure the protection of natural resources and the environment within the Ramona Reservation in a consistent manner with mining operations on the Reservation. This Ordinance establishes the method, manner and standards for mining of any natural resources found on the Ramona Reservation. No mining operation may occur on tribal lands without a proper approved mining lease granted by the Tribe and a compliance with all the provisions of this Ordinance.

**B. Authority**

This Mining Ordinance is enacted in accordance with the inherent sovereign authority and customs and traditions of the Ramona Band of Cahuilla.

**II. DEFINITIONS**

For the purpose of this Ordinance the following words and phrases have the meanings ascribed to them in this Section:

- (1) " Ordinance" means the Ramona Band of Cahuilla Mineral Resource Protection Ordinance.
- (2) "Affected Lands" means the surface and subsurface areas on the Ramona Reservation where any prospecting, exploration or mining operation is or will be conducted, including, but not limited to: on site private ways and roads appurtenant to any such area; land excavations; prospecting sites; drill sites or workings; refuse banks or spoil piles; evaporation or settling ponds or lagoons; leaching dumps; placer areas; work, parking, storage or waste discharge; areas in which structures, facilities, equipment, machines, tools or other material or property which result from or are used in such operations are situated; land from which overburden is to be or has been removed and land upon which overburden or waste rock is to be or has been deposited; land which is disturbed by the building of access roads, storage areas or other support facilities for the purpose of mining and unstable sloped.
- (3) "Aquifer" means a water-bearing bed or stratum of permeable rock, sand, or gravel capable of storing, transmitting, or yielding water in sufficient quantities.

(4) "Borrow Pit" means any excavation site outside the limits of construction providing material necessary to that construction, such as fill material for embankments.

(5) "Chemicals" means substance whether liquid, gaseous or solid which when applied by any person may present hazards to either human health or the reservation environment.

(6) "Contamination" means the introducing by any means of any substance in liquid, solid or gaseous form into or upon reservation resources in sufficient quantities as may be directly or indirectly injurious to the health, safety or welfare of the reservation population as a result of domestic, commercial, industrial, agricultural or recreational activities or which may be directly or Indirectly Injurious to livestock, wildlife, fish or aquatic life and their inhabitant.

(7) "End Hauling" means the removal and transportation of excavated material, pit or quarry overburden, or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

(8) "Erodible Soils" means those soils exposed or displayed by mining activities that may be readily moved by water.

(9) "Exploration" means the act of searching for or investigating a mineral deposit and includes but not limited to sinking shafts, tunneling, drilling core and bore holes, and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development of extraction operations, and the building of roads, access ways and other facilities related to such work.

(10) "Life of the Mine Permit" means a permit to conduct a mining operation, which is in effect as long as:

(a) An operator continues to engage in the extraction of minerals and complies with the provisions of this Ordinance;

(b) Mineral reserves are shown by the operator to remain in the mining operation and the operator plans to, or does, temporarily cease production for one-hundred-eighty days or more if she/he files a notice thereof with the commission stating the reasons for non-production, a plan for the resumption and other necessary activities as established by the commission to maintain the mine In a non-producing state. The requirement of a notice of temporary cessation does not apply to operators who resume operation within one year and have Included, In their permit applications, a statement that the affected lands are to be used for less than one-hundred-eighty days per year;

(c) Production is resumed within five years of the date production ended, or the operator files a report requesting an extension of the period of temporary cessation of production with the commission stating the reasons for the continuation of non-production and those factors necessary to,

and his/her plans for, resumption of production. A temporary cessation of production may not be continued for more than ten years without terminating the operation and fully complying with the reclamation requirements of this Ordinance. Such permit includes that period of time after cessation of production necessary to complete reclamation of affected lands, until the commission releases, in writing, the operator from further reclamation obligations regarding the affected land, declares the mining operation terminated, and releases the surety thereon.

(11) "Limits of Roadway Construction" means the area occupied by the completed roadway including the cutbank, fill slope, and the area cleared for construction of the roadway.

(12) "Load Bearing" means the part of the road which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth necessary for support.

(13) "Mineral" means zeolite, sand, gravel, clay and any other material removed from the earth for reuse or further proceedings.

(14) "Mining Operation" means the development or extraction of all mineral from its natural occurrence on affected land. The term shall be broadly construed to include open mining, surface mining and surface operation, and the disposal of refuse from underground and in site mining. Moreover, the term means operations on affected lands including: transportation, mining, concentration, milling, smelting, refining, cleaning, preparation, evaporation and other processing.

(15) "Notice to Comply" means a notice issued by the Ramona Environmental Department which may, among other things, require initiation and/or completion of action necessary to prevent, correct and/or compensate for present or future damage to Reservation resources, or present or future harm to the Reservation population, which has resulted, or which may in the future result, from mining operations.

(16) "Open Mining" means the mining of minerals by removing the overburden lying above such deposits and mining directly from the deposits thereby exposed. The term includes mining directly from such deposits where there is no overburden, mining by auger method, and the production of surface mining refuse. The term also includes, but is not limited to, the following: open cut mining; open pit mining; strip mining; quarrying; placer operations; and the excavation and removal of sand, gravel, clay, rock, or other minerals for the primary purpose of construction or maintenance of roads. Prospecting and exploration activities shall be included within the meaning of this term when the removal of geologic sample materials exceeds a cumulative total in excess of one ton. Open mining shall not include: excavation or grading conducted for farming; on-site road construction; or other on-site construction, but shall include adjacent or off-site borrow pits.

(17) "Operator" means any person, firm, partnership, association or corporation or any

tribal, federal, state, county or municipal government or governmental enterprise engaged in or controlling a mining operation.

(18) "Overburden" means materials of any nature, consolidated or unconsolidated, which overlay a natural deposit of useful material or ores and such earth and other materials after removal from their natural state in the process of exploration or mining.

(19) "Perennial Stream" means any stream segment which normally maintains a surface flow of water year round.

(20) "Permit" means any authorization, license, or other approval action required by this Ordinance before any -exploration or mining operations may take place.

(21) "Person" means any: Individual, association; business; company; joint venture; partnership; private, public, tribal or municipal corporation; tribal enterprise; tribal, state or local governmental entity; or other association of individuals or persons of whatever nature.

(22) "Prospecting" means the same as exploration.

(23) "Reclamation" means the implementation of procedures, during and after an exploration or mining operation, Intended to minimize and/or mitigate the disruption of Reservation resources resulting from the operation and to protect Reservation resources and the health, safety, and welfare of future economic interests of the Reservation population by providing for subsequent beneficial use of affected lands through the rehabilitation of plant cover, soil stability, water resources, and other appropriate measures.

(24) "Reclamation Plan" means the operator's written proposal, submitted to the Environmental Department as part of any notice or permit

(25) "Refuse" means all waste soil, rock, mineral, liquid, vegetation and other material directly resulting from or displayed by the mining, cleaning or preparation of minerals and includes all waste or abandoned materials limited to, garbage, trash, leftover cable and abandoned equipment and any other material which may adversely affect or damage Reservation resources or which may pose a threat to the health, safety or welfare of the Reservation population.

(26) "Relief Culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive build-up in water volumes and velocity.

(27) "Reservation" means the Ramona Reservation. The Ramona Reservation shall be taken to include all territory within the original reservation boundaries, including fee patent lands, roads, waters, bridges, and lands used for Environmental Department purposes.

- (28) "Reservation Resources" means air, land, surface water, groundwater, fish and wildlife, trees and other vegetation, cultural, historic, and religious resources and shall also mean capital improvements located within the Ramona Reservation.
- (29) "Reservation Population" means all people either residing or otherwise conducting business or other activities on all land, both trust and fee, within the exterior boundaries of the Ramona Reservation and only subsequent land acquisitions.
- (30) "Side Casting" means the act of moving excavated material to the side and depositing such material within the limits of road construction or dumping over the side and outside the limits of construction.
- (31) "Spoil" means any material removed as overburden or mining refuse generated during mining operations, or any excess material removed or generated as overburden or generated during road construction which is not used within the limits of construction.
- (32) "Spoil Bank" means a deposit of excavated overburden or mining refuse.
- (33) "Surface Mining" means the same as open mining.
- (34) "Tribe" means the Ramona Band of Cahuilla.
- (35) "Tribal Council" means the five (5) member Ramona Tribal Council.
- (36) "Walk-on Prospecting" means those casual exploration activities properly authorized by the Environmental Department which have the potential for causing little or no surface disturbance and which will not disturb water quality. Examples of such activities are: hand sample collection, geochemical sampling, geologic mapping, geophysical surveys (non-land disturbing), boundary or claim surveying, or location
- (37) "Water Bay" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion areas so that it does not gain the volume and velocity which causes soil movement and erosion.

### **III. PERMITTING, RECLAMATION PLAN, HEARING, OPERATION**

#### **A. APPLICATION FOR MINING PERMIT AND FEE.**

Any person desiring to engage in a mining operation shall make written application to the Ramona Environmental Department for a permit for each mining operation on forms furnished by the Department. The permit, if approved, shall authorize the operator to engage in the mining operation on the affected lands described in his/her application for the life of the mine. The application form shall contain the following information:

- (1) The legal description and area of affected land;
- (2) A reclamation plan pursuant to subsection B. below submitted with the application;

- (3) The address and telephone number of the general office and the local address and telephone number of the applicant;
- (4) The mineral or minerals to be extracted;
- (5) A description of method of mining;
- (6) The size of the area to be worked at any one time;
- (7) The timetable estimating the proposed duration of the mining operation;
- (8) The written acknowledgment the applicant and such other persons, if any, necessary will grant physical access by the Department to the area under application from the date of the application and during the life of the permit as is necessary to assure compliance with the provisions of this Ordinance.

**B. RECLAMATION PLAN REQUIREMENTS.** The reclamation plan required by this Ordinance shall be based upon provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the operator. Reclamation shall be required on all the affected land. The reclamation plan shall include the following information:

- (1) A statement regarding the condition of the affected lands prior to any exploration or mining including existing uses at the time exploration or mining began; capability of the land prior to any exploration or mining operations to support other uses considering soil characteristics, vegetation, availability of surface and groundwater, and topography; and the potential productivity of the land prior to exploration or mining under high levels of management;
- (2) A statement regarding the proposed subsequent use of affected lands after reclamation which is supported by satisfactory evidence that all the owners of a possessory interest in the lands concur with this proposed use;
- (3) Evidence that the proposed subsequent use is lawful under applicable land use and environmental laws;
- (4) A description of the types of reclamation the operator proposed to achieve upon the affected lands and the amount of acreage accorded to each type;
- (5) A description of how the reclamation will be achieved, including a timetable indicating when the reclamation plan will be implemented. The description of how the reclamation plan will be achieved shall include:

(a) The engineering techniques to be used in reclamation and a description of the major types of equipment to be used;

(b) An estimate of the cost per acre for the reclamation;

(c) A description of the manner and type of re-vegetation on affected lands which shall be sufficient to establish a diverse, long-lasting vegetation cover that is capable of self-regeneration and at least equal in cover to the original on the affected lands;

(d) Proposed practices to protect adjacent lands, reservation resources, and the reservation population from harmful effects emanating from the affected lands;

(e) Specifications for surface gradient restoration to a surface suitable to the proposed subsequent uses after the reclamation is completed;

(f) Plans to prevent disturbance of prevailing hydrologic balance of the affected lands and surrounding area and to prevent disturbance of the quality and quantity of surface and groundwater;

(g) Methods for control and disposal of contamination from exploration or mining refuse;

(h) Where applicable, plans for diversion of surface water around disturbed lands and for restoration of stream channels and stream banks to a condition minimizing erosion, siltation and other pollution;

(i) Where necessary to remove overburden to explore or mine minerals, plans for removal and segregation of topsoil from other soil. If such topsoil is not to be replaced on a backfill area within a time short enough to prevent deterioration of the topsoil or vegetative cover, other means shall be employed so that the soil is protected from water and wind erosion, remains free of contamination by other acid or toxic materials, and in a usable condition for sustaining vegetation when restored during reclamation. If, in the judgment of the Environmental Department, such topsoil is of insufficient quantity or of poor quality for sustaining re-vegetation, or If other material can be shown to be more suitable for the re-vegetation requirements, the operator with the prior approval of the Environmental Department, may remove, segregate and preserve In a like manner such other material which is best able to support re-vegetation; and

(j) A topographic map of suitable scale portraying the final land use for each portion of the affected lands.

(6) If applicable, any operator who needs to develop road(s) as part of his/hers mining activities shall comply with the requirements as provided in Section V. subsections J-P.

**C. HEARING -MINING PERMIT APPLICATION.** Upon receipt of an application for mining operation permit and all fees due from the operator, the Tribal Council shall set a date for the hearing on such application not more than ninety days after the date of filing. Prior to the holding of any such hearing, the Tribal Council shall provide notice to any person previously filing a protest or petition for hearing or statement in support of the application, and shall publish notice of the time, date and location of the hearing in a newspaper of general circulation In the locality of the proposed mining operation once a week for two consecutive weeks Immediately prior to the hearing. A final decision on the application shall be made within one hundred-twenty days of the receipt of the application. In the event of serious unforeseen circumstances or significant snow cover on the affected land that prevents a necessary on-site inspection, the Tribal Council may reasonable extend the maximum time to sixty days.

**D. MODIFICATION OF APPLICATION PRIOR TO HEARING.** Prior to



the date set for the hearing on the application, the applicant may at the request of the Tribal Council, modify the application or correct any errors.

**E. GRANT OF PERMIT OR GROUNDS FOR DENIAL.** The Tribal Council shall grant a permit to an operator of the application complies with the requirements of this Section and all applicable tribal laws. The Tribal Council may not deny a permit, except for one or more of the following reasons

- (1) The application is incomplete or the surety has not been posted;
- (2) The applicant has not paid the required fee;
- (3) Any part of the proposed mining operation, the reclamation program or the proposed future use is contrary to the laws or regulations of the Tribe;
- (4) The mining operation will adversely affect the stability of any significant, valuable and permanent man-made structures located within two-hundred feet of the affected land, except where there is an agreement between the operator and the persons having an interest in the structure that damage to the structure is to be compensated for by the operator;
- (5) The mining operation would be in violation of any zoning or subdivision regulations;
- (6) The operator is currently found to be in violation of the provisions of this Ordinance with respect to any mining operation with the Reservation; or
- (7) The land is unsuitable for a mining operation, as determined pursuant to subsection O. below.

#### **F. DUTIES OF THE OPERATOR**

- (1) Every operator to whom an approved permit is issued pursuant to this Ordinance may engage in exploration or mining upon the affected lands in conformity with the terms of that permit and this Ordinance;
- (2) All reclamation provided for in this Ordinance shall, to the extent practicable, be conducted simultaneously with exploration or mining operations and in any case shall be initiated at the earliest possible time after completion or abandonment of exploration or mining activities on any segment of the permit area. Reclamation activities shall be completed not more than two (2) years after completion or abandonment of exploration or mining on each segment of the area for which the permit is requested, unless such period is extended by the Tribal Council;
- (3) Within forty-five days after completion or abandonment of exploration or mining on an area under permit or within thirty days after each annual anniversary date of the operating permit, whichever is earlier, or at such later date as may be approved by the

Tribal Council, and each thereafter until reclamation is completed and approved, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Environmental Department which report shall:

- (a) Identify the operator and permit number;
- (b) Locate the operation by legal description and with relation to the nearest town or other well know geographic feature;
- (c) Estimate acreage to be newly disturbed by exploration or mining in the next twelve month period;
- (d) Up-date any maps previously submitted or provide such maps as may be specifically requested by the Tribal Council. Such maps shall show:
  1. The operating permit area;
  2. The unit of affected lands;
  3. The area to be explored or mined during the next twelve month period;
  4. If completed, the date of completion of exploration or mining;
  5. If not completed, the area that will not be further disturbed by the exploration or mining;
  6. The date beginning, amount and current status of reclamation performed during the previous twelve months.

**G. TRANSFER OF PERMIT.** No transfer, sale, or other assignment of the rights granted under any permit issued pursuant to this Code shall be made without the written approval of the Tribal Council.

**H. LICENSE FEE REQUIREMENTS.** An operator shall obtain a license to mine sand, gravel, or rock to be crushed and used in construction. The fee for the license is an annual fee of one hundred dollars. Said fee shall be deposited in the account of the Tribe, which shall be used in addition to other authorized funding sources, for the continuation of the Environmental Department. No fee for surety shall be required of units of the tribal government.

**I. OPERATING AND RECLAMATION STANDARDS.** An operator shall comply with the following operating and reclamation standards

- (1) Surface mined areas shall be reclaimed and shaped to control erosion and eliminate hazards to domestic animals and wildlife, to protect public health and safety and the environment and to provide for appropriate future beneficial land use;
- (2) All refuse, machinery, equipment and materials from the pit operation shall be disposed of In a manner so as to create the least amount of unsightliness and unproductive areas and so as to not pollute surface or groundwater;
- (3) Land shall be re-vegetated in such a way as agreed upon by the operator, the local

conservation district and the landowner which establishes a diverse, effective and long-lasting vegetative cover. For any future land use other than crop land, the re-vegetation shall be capable of self-regeneration and at least equal in extent of cover to the natural vegetation of the surrounding area;

(4) If it is necessary to remove overburden in order to remove the construction aggregates, topsoil shall be removed from the affected land and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material and is in a usable condition for sustaining vegetation when restored during reclamation;

(5) Any disturbance to the prevailing hydraulic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and groundwater systems both during and after the pit operation and during reclamation shall be minimized. Operations shall be conducted to protect all waters from pollution by siltation, waste, debris and toxic fluids or materials;

(6) All surface areas of the affected land, including spoil piles, shall be stabilized and protected so as to effectively control erosion and attendant air and water pollution. Noxious weed infestations shall be controlled during all phases of the pit operation and reclamation; and

(7) Any area outside of the affected land shall be protected from slides, subsidence or damage occurring during the mining operation and reclamation. All high walls shall be reduced to a slope not greater than the angle of repose upon abandonment of the mining operation, unless such a reduction would create conditions more detrimental than preservation of high wall.

Prior to slope reduction, the operator shall take precautions to limit access to the high wall area and to warn the public of the high wall. Such precautions shall include fencing and posting of warning signs. If high wall reduction is deemed impossible, impractical or aesthetically undesirable by the Environmental Department, the Department shall prescribe adequate fencing.

**J. PUBLICATION OF NOTICE OF MINE OPERATION.** The notice shall contain the identity and address of the operator and resident agent, the location of the mining operation, the mineral to be mined, the dates of commencement and completion of the operation, the proposed future use of the affected land and the location where additional information about the operation may be obtained.

**K. NOTICE OF OPERATION TO ENVIRONMENTAL DEPARTMENT.** The operator shall submit notification, consisting of a map of the affected area and a notice to the Environmental Department of his/her intent to commence mining at a new mine site at least thirty days prior to beginning mining

operations.

**L. EMERGENCY WAIVER OF NOTICE REQUIREMENTS.** When an emergency situation exists and when in the public interest, the Environmental Department may waive the thirty day notice requirement of subsection K.

**M. SECURITY REQUIRED.** Prior to the commencement of mining an operator shall submit to the Environmental Department a surety in the amount of five hundred dollars per acre of affected land. In lieu of filing a surety for each operation, the operator may post a twenty-thousand dollar surety for tribal mining of minerals. If an operator increases the area to be explored or mined during the twelve month period, the Environmental Department may increase the amount of the bond to compensate for the increase. The Environmental Department shall have the authority to determine the amount of the bond that shall be conditioned upon the operator's faithful performance of the requirements set forth in this Ordinance. In lieu of the surety bond required by this section, the operator may file with the Environmental Department a cash deposit, negotiable securities acceptable to the Environmental Department or an assignment if a savings account or of a savings certificate on an assignment form prescribed by the Environmental Department. Liability under the bond shall be maintained as long as reclamation is not completed. In lieu of the required surety, the operator may deposit cash or a certificate of deposit made payable to the Environmental Department in an amount equal to that of the required surety. Said amount shall be deposited into an escrow account, and subsequently returned provided that all mining activities are completed pursuant to the provisions of this Ordinance.

**N. ANNUAL FEE AND REPORT.** Together with the annual one-hundred dollars license fee, the operator shall submit the following information for each location mined during the previous year: the tonnage of material removed, a map showing the areas mined, the areas reclaimed and the acreage of each.

**O. UNSUITABLE LAND -NO PERMIT ISSUED.** No permit may be issued for mining operation proposed on unsuitable land. Land is unsuitable when the following conditions cannot be satisfactorily mitigated:

- (1) Reclamation of the affected land pursuant to the requirements of this chapter is not physically or economically feasible;
- (2) Substantial disposition of sediment in stream or lake beds, landslides or water pollution cannot feasibly be prevented;
- (3) The adverse effects of the proposed mining operation on the historic or archaeological aspects of affected or surrounding land outweigh the benefits of the proposed mining operation;
- (4) The proposed mining operation will result in the loss or reduction of long-range productivity of aquifer, public and domestic water wells, watershed lands, aquifer

recharge areas or significant agricultural areas; or

(5) The biological productivity of the land is such that the loss would jeopardize threatened or endangered species of wildlife indigenous to the area.

**P. ANNUAL FILING OF MAP AND FEE.** Within sixty days prior to anniversary date of the permit each year, the operator shall submit a map on the scale provided for by showing the reclamation accomplished and any deviations from the originally approved operating and reclamation plans. Except for operators which are units of Tribal government, the operator shall submit, In addition to the map, an annual fee of one-hundred dollars.

### **III. EXPLORATORY PERMITS**

**A. EXPLORATION PERMIT.** The exploration permit shall contain the following:

- (1) The name of the operator who intends to conduct the mineral exploration operations;
- (2) The operator's address and principle place of business;
- (3) The name and address of the resident agent for the service of process on the operator;
- (4) A statement that the mineral exploration operation will be conducted pursuant to and subject to the provisions of this chapter;
- (5) A brief description of the type of mineral exploration operation to be conducted;
- (6) The legal description of the land to be explored by section, township and range;
- (7) The approximate date upon which the operation will commence;
- (8) A statement that the applicant has the authority to conduct an exploration operation on the lands described in the application;
- (9) The written acknowledgment, that the applicant and such other persons, if any, will grant such access to the Environmental Department or its agents to the area under application from the date of the application and thereafter for such time as is necessary to assure compliance with the provisions of this chapter.

**B. EXPLORATION RECLAMATION PLAN.** Reclamation is mandatory on all affected lands. The reclamation plan shall include:

- (1) A description of the type of reclamation the operator proposes to achieve the reclamation of the affected lands including a proposed timetable pursuant to Section V.,

subsection I;

- (2) A narrative description of the temporary and permanent plugging and capping procedure to be used; and
- (3) The estimated cost of implementing and completing the proposed reclamation and estimated cost of plugging and sealing each test hole pursuant to the provisions of subsections J. below.

**C. MAP OF EXPLORATION AREA.** The applicant shall submit with the exploration permit a map, topographic map if available, of the proposed exploration area and of the adjacent one-half mile area surrounding the proposed exploration area. The map shall identify the location of all known natural springs, lakes, ponds, reservoirs, water pipelines, earthen dams, private and public water wells, buildings, proposed or existing roads or trails and the tentative test hole locations within one-fourth of one-fourth of a section. Where closely placed test holes are anticipated, an outline of that area shall be indicated in lieu of identifying each test hole location. The scale of such map shall be not more than one to twenty-five thousand. Such map shall clearly present the required information. Submission of the most recent United States geological survey maps, if available, is adequate and the operator shall clearly identify the information required by this section on the map.

**D. WATER RIGHTS OR WATER POLLUTION CONTROL RESTRICTIONS.** The operator shall abide by any restrictions regarding water rights or water pollution control as notified, in writing, by the Environmental Department within thirty days of the filing of the notice.

**E. TIME FOR COMMENCEMENT OF EXPLORATION OPERATIONS.** The operator may commence the exploration operation upon receipt of the written restrictions provided for in subsection A of this Section.

**F. DRILLING OF EXPLORATION OPERATIONS.**

- (1) The number and location of drill holes, test pits and other excavations shall be shown on the map or aerial photograph submitted with the Permit Application.
- (2) Drill sites, test pits, bulldozer work and other excavation shall not be conducted in dry or flowing stream channels. Excavations and bulldozer work should be kept to a minimum and all reasonable efforts should be made to locate drill sites where no bulldozer work will be necessary.
- (3) Drilling mud and drill cuttings should be confined to the site. Whenever possible these materials should be replaced in the drill hole as soon as geophysical logging are completed. All other refuse from drilling operations shall be disposed of by burial or by hauling to an authorized landfill. Drill holes should be plugged with a full clay plug.

(4) Drill holes shall be abandoned in the following manner:

(a) Any artesian flow of groundwater to the surface be eliminated by a plug made of cement or Similar material or by a procedure sufficient to prevent such artesian flow unless an agreement is reached with the Environmental Department for another use of such water.

(b) Drill holes which have encountered any aquifer shall be sealed, utilizing a sealing procedure that is adequate to prevent fluid communication between aquifers.

(c) Each drill hole shall be securely capped at a minimum of two feet below either the original land surface or the collar of the hole, whichever is the lower elevation. The cap is to be made of concrete or material that is satisfactory for such capping. The site shall be back-filled above the cap to the original land surface.

(d) Each drill site shall be reclaimed pursuant to this Ordinance including, if necessary, reseeding if grass or any other crop is destroyed.

(5) Abandonment in a manner provided in paragraph (d) of the Section shall occur immediately following the drilling of the hole and the probing for minerals in the exploration process. However, a drill hole may be maintained as temporarily abandoned without being plugged, sealed or capped shall be left in such a condition as to allow a fluid communication between aquifers. Such temporarily abandoned drill holes shall be securely covered in a manner which will prevent injury to persons or animals.

(6) No later than sixty days after the completion of the abandonment pursuant to paragraph (4) of this section of any drill hole which has artesian flow at the surface, the person conducting the exploration or mining shall submit to the Environmental Department a report containing the location of such hole to within two hundred feet of its actual location, the estimated rate of flow of such artesian flow (if such is known), and the facts of the technique used to plug such hole. Such report and all information contained therein shall be confidential in nature and shall be a matter of public record.

(7) No later than twelve months after the completion of the abandonment of any drill hole pursuant to paragraph (4) of this section, there shall be filed by the person conducting the prospecting with the forty acre legal subdivision, and the facts of the technique used to plug, seal or cap the hole. Such reports and all information contained therein shall be confidential in nature and shall not be a matter of public record.

#### **G. STORAGE OF FUELS AND CHEMICALS.**

(1) Large quantities of gasoline, diesel oil, petroleum products and toxic chemicals, either on the surface or underground, will be stored in durable tanks or containers and within an area surrounding by dikes to contain or prevent escape in case of a major spill or leak.

(2) All underground service areas for diesel powered equipment and underground fuel transfer areas must be equipped with pumps that will prevent petroleum waste and spills

from gaining access to the mine drainage system.

**H. EXPLORATION PERMIT FEE.** A fee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) shall accompany the exploration permit application.

**I. DOMESTIC WATER WELLS-INFORMATION REQUIRED OF OPERATOR.** The Environmental Department may require the operator to provide, prior to commencing or during the course of an exploration operation, water quality information concerning designated domestic water wells within one-half mile of the proposed exploration area. If the operator is refused access to any well, the operator shall notify, in writing, the Environmental Department of such refusal and may not be required thereafter to provide any information concerning such well.

**J. INSPECTION OF AREA BEFORE EXPLORATION-SURETY FOR COSTS OF PLUGGING TEST HOLES AND RECLAMATION.** The Environmental Department may inspect the area proposed to be explored. Based upon this inspection, the criteria established in the permit and the submitted reclamation plan, the Environmental Department shall set the level of the surety necessary to guarantee the costs of plugging ten percent of the proposed test holes and reclamation of the Environmental Department before the operator commences the exploration operation in such form as required by the Environmental Department. In lieu of filing or depositing a surety for each exploration operation, the operator may post a twenty thousand dollar surety for Reservation-wide exploring. If a Reservation wide surety is posted, the person posting the surety shall otherwise comply with the provisions of this chapter for every area to be explored.

## **V. MINING OPERATIONS**

**A. GRADING.** Grading shall be carried on so as to create a final topography appropriate to the final use selected in accordance with Reclamation Plan.

**B. DISPOSAL OF REFUSE.** All refuse from the mining operation shall be disposed of in a manner so as to create the least amount of unsightliness and unproductive areas, and will not pollute surface or ground water.

**C. REVEGETATION.** In those areas where re-vegetation is part of the reclamation plan, land shall be re-vegetated in such a way as agreed upon by the operator, and the landowner which establishes a diverse, effective and long lasting vegetative cover that is capable of self-regeneration and at least equal in extent of cover to the natural vegetation of the surrounding area.

**D. REMOVAL AND HANDLING OF TOPSOIL** If it is necessary to remove overburden in order to mine the mineral, topsoil shall be removed from the affected land segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil is preserved from



wind and water erosion remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If, in the opinion of the commission such topsoil is of insufficient quantity or of poor quality for sustaining vegetation or if other strata can be shown to be more suitable for vegetation requirements, the operator shall remove, segregate and preserve in a like manner such other strata which are best able to support vegetation.

**E. DISTURBANCE TO HYDROLOGIC BALANCE.** Any disturbance to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and ground water systems both during and after the mining operation and during reclamation shall be minimized.

**F. SLIDES, SUBSIDENCE OR DAMAGE PROTECTION -FENCING.** Any area outside of the *affected* land shall be protected from slides, subsidence or damage occurring during the mining operation and reclamation. All high walls shall be reduced to a slope not greater than the angle of repose upon abandonment of the mining operation, unless such a reduction would create conditions more detrimental than preserving the high wall. Prior to slope reduction, the operator shall take precautions to limit access to the high wall area and to warn the public of the high wall. Such precautions shall include fencing and posting of warning signs. If high wall reduction is deemed impossible, impractical or aesthetically undesirable by the commission of minerals and environment, the commission shall prescribe adequate fencing.

**G. SURFACE AREAS PROTECTED -SPOIL PILES -WEEDS.** All surface areas of the affected land, including spoil piles, shall be stabilized and protected so as to effectively control erosion and attendant air and water pollution. Noxious weeds infestations shall be controlled during all phases of the mining operation and reclamation.

**H. CHOICES OF RECLAMATION -REQUIREMENTS FOR OPERATOR.** Depending on the operator's choice of reclamation, the operator shall meet the following requirements:

(1) If the operator's choice of reclamation is forest planting, she/he may, with the approval of the Environmental Department, select the type of trees to be planted. Planting methods and care of stock shall be governed by good planting practices. If the operator is unable to acquire sufficient planting stock of desired tree species at a reasonable cost, she/he may defer planting until planting stock is available to plant such land as originally planned, or he/she may select an alternate method of reclamation;

(2) If the operator's choice of reclamation is rangeland restoration, the affected land shall be restored to the satisfaction of the Environmental Department to slopes commensurate with the proposed land use and shall not be too steep to be traversed by livestock. The legume seed shall be properly inoculated in all cases. The area may be seeded either by hand or power or by the aerial method. The species of grasses and

legumes and the rates of seeding to be used per acre shall be determined primarily by recommendations from the Environmental Department, and experienced reclamation personnel of the operator, after considering other research or successful experience with range seeding. No grazing shall be permitted on reclaimed land until the planting is firmly established. The Environmental Department, in consultation Tribal Council, shall determine when grazing may start;

(3) If the operator's choice of reclamation is for agricultural or horticultural crops which normally require the use of farm machinery. Preparation for seeding or planting, fertilization and seeding or planting rates shall be governed by general agricultural and horticultural practices except where research or experience In such operations differ with these practices; and

(4) If the operator's choice of reclamation is for the development of the affected land for homesite, recreational, industrial or other uses, including food, shelter and ground cover for wildlife, the basic minimum requirements necessary for such reclamation shall be agreed upon by the operator, landowner and the Environmental Department.

**I. TIME FOR COMPLETION OF RECLAMATION -PLANTINGS NOT REQUIRED UNDER CERTAIN CONDITIONS.** All reclamation provided for under this Ordinance shall be carried to completion by the operator with all reasonable diligence, and each phase of reclamation shall be completed within five years, unless such period is extended by the Tribal Council upon a finding that additional time is necessary for the completion of the terms of the reclamation plan, except that:

(1) No planting of any kind shall be required to be made on any affected land being used or proposed to be used by the operator for the deposit or disposal of refuse until after the cessation of operations productive of such refuse, or proposed for future mining, or within depressed haulage roads or final cuts while such roads or final cuts are being used or made, or where permanent pools or lakes have been formed; and

(2) No planting of any kind shall be required on any affected land so long as the chemical and physical characteristics of the surface and immediately underlying material of such affected land are toxic, deficient in plant nutrients, or composed of sand, gravel, shale or stone to such an extent as to seriously inhibit plant growth and such condition cannot feasibly be remedied by chemical treatment, fertilization, replacement of overburden or like measures.

**J. ROAD LOCATION, DISIGN, CONSTRUCTION AND MAINTENANCE.**

(1) Roads can be major contributors to sediment production resulting in water quality degradation In connection with mining activities. A well designed, soundly constructed and properly maintained road system can significantly reduce water pollution problems. A reasonable amount of latitude in the design, construction and maintenance is allowable

consistent with the purposes of this Ordinance. Consultation and field reconnaissance of road location by an interdisciplinary team of tribal professionals may be required as a condition to issuance of a permit.

(2) The following standards shall apply to road location:

- a. Minimize road density by using existing and abandoned roads whenever possible and practical. Keep new road construction at an absolute minimum.
- b. Locate roads to minimize disturbance to all surface and ground water resources on the reservation. Avoid locating roads in narrow canyons, marshes, wet meadows, natural drainage channels, and geological hazard areas.
- c. Locate roads a safe distance from streams or lakes when running parallel to water bodies.
- d. Fit the road to the topography to minimize soil disturbance.
- e. Keep road grades within 8-10%, or less where possible and practical. Where excessive excavation requirements or topography constraints are present, occasional grades of up to 15% may be used with prior Environmental Department approval. Keep steep segments as short as possible where the grade necessarily exceeds 8-10%.
- f. Avoid long, continuous grades; avoid long, completely flat segments where ponding will occur.
- g. Avoid headwalls at a tributary drainage source on ridge top routes. Locate roads slightly off center on ridge top routes.
- h. Avoid locating roads on excessively steep, unstable, erosion, or slide prone slopes. Obtain soils and area geophysical information and review sensitive lands maps where available and survey adjacent similar areas for vegetation and topography "indicators" for suspected problem areas.
- i. Minimize the number of stream crossings. All stream crossings must be approved by the Environmental Department in writing in advance.
- j. Choose crossing locations at right angles to the stream channels.

(3) The following standards apply to road design:

- a. Build the minimum adequate road for the exploration mining system used. Design roads which can carry the anticipated traffic load with reasonable safety, accomplishes the mining requirements economically, and minimize impacts to the other resources available in the area.

b. Fit the road to the topography so that alterations of natural features are minimized.

1. Minimize and balance cuts and fills. Use waste excavation in fills to avoid heavy side casts whenever feasible.

2. Sacrifice alignment to avoid heavy excavation. Fit the road to the topography so landscapes alterations are minimized.

3. Plan and locate switchbacks on the flattest slope available to avoid heavy excavation.

4. Avoid slide casting material on slopes over fifty (50%) percent which are terminated within five hundred feet of a stream or lake.

5. Fill slope ratios unless otherwise approved by the Environmental Department are:

Common earth --1-1/2:1

Rock --1-1/2: 1

Sandy 5011 --2: 1

6. Cut slope ratios unless otherwise approved by the Environmental Department are:

Common earth (on slopes over 70%) -3/4:1

Common earth (on slopes to 50%) -1/2:1

Hardpan, broken or soft rock -1/3: 1 Rock -1/4:1

c. Design roads to minimize interference with surface and subsurface drainage patterns.

d. Plan stream crossings with care so that channel and bank disturbance is minimized.

e. Where necessary to protect fill embankments from stream erosion, a headwall (usually riprap or gallons) is recommended to prevent erosion of the fill.

f. All roads should be designed with adequate permanent or temporary water management and/or crossing structures so that the road does not become a source of erosion and sedimentation.

1. All roads should be out sloped or ditched on the uphill side and appropriate surface drainage should be provided by the use of crowning, ditching, adequate culverts or cross drains, relief culverts, water bars, diversion ditches and bridges as the location, road standard or topography may require.

2. Cross drains, relief culverts and diversion ditches shall not discharge directly into natural waters or onto erodible soils or fill slopes unless adequate outfall protection is

provided which prevents erosion.

3. Effective drainage structures shall be installed at all low points in the road gradient. Generally, spacing should be no wider than as follows:

This guideline provides only a rule of thumb approximation. Parent material, slope position and drainage area or pattern may dictate wider or closer spacing.

Road Gradient	Maximum Drainage Spacing
0 to 8%	1200 feet
8% to 15%	900 feet
15% or over	600 feet

4. Drainage structures on permanent roads shall be designed to handle a fifty year flood and should be functional at all times. Plugged or damaged structures shall be cleaned or replaced before runoff occurs.
5. Drainage structures on temporary roads which cross natural water courses shall be designed to handle a twenty-five year flow and shall be removed upon completion of use, restoring the watercourse to its original water carrying capacity.
6. Relief culverts shall meet the following minimum specifications:
  - a. Be at least eighteen inches in diameter or the equivalent;
  - b. Be installed with adequate headwalls, where needed, and sloping downward toward the outside shoulder of the road at a minimum to keep the culvert clean and at a maximum of four percent.
7. Drainage structures or relief culverts shall be installed concurrently as road work progresses.
8. Design road grades and locate culverts so silt will settle out and not drain into the watercourses.

**K. THE FOLLOWING STANDARDS APPLY TO ROAD CONSTRUCTION:**

- a. Merchantable timber removed for right-of-way construction shall be removed or decked at suitable locations where the timber will not be covered by fills or side casts. Fall all trees that lie within the required right-of-way boundary, prior to sub-grade construction. Fall all danger tree snags and leavers as directed by the Environmental Department which could unpredictably fall and hit the road.

- b. Deposit excess debris, slash and road building materials in stable locations.
- c. Do not allow the low point of a grade break to occur on deep fills if possible.
- d. All ditches, culverts, cross drains; water bars and diversion ditches shall be installed concurrently with construction of the roadway.
- e. After the spacing of surface drainage structures, If necessary, so that water spills on stable areas.
- f. Avoid unnecessary soil and vegetation disturbance.
- g. Do not divert the runoff or stream flow from two or more drainage into one channel.
- h. Do not dredge materials from streams for road construction.
- i. Clear stream channel of all debris and slash generated during operations prior to removal of construction equipment from the vicinity or the winter season, whichever is first.
- j. Material used in road construction shall be free of loose stumps, excessive accumulation of slash, and woody material of more than three cubic feet.
- k. During road construction, fills or embankments shall be built up in two foot layers. Each layer shall be compacted by operating the tractor or other equipment over the entire surface of the layer.
- l. Construction shall be accomplished when low flow periods and soil conditions are least likely to result in excessive erosion and/or soil movement.
- m. When soil exposed by road construction appears to be unstable or erodible and is so located that slides, slips, slumps or washing may reasonably be expected to cause unreasonable damage to a reservation resource, than such exposed soil areas shall be seeded with grass, other cover or be treated by other means acceptable to the Environmental Department.
- n. When temporary stream crossings are necessary, pick locations requiring a minimum of bank disturbance and soil displacement. Equipment shall not be used in stream crossing without prior written approval of the Environmental Department.
- o. Fully back slope each graded section except where vertical banks are proven to be more stable than sloping ones.
- p. Rough grade a new road only as far as that road can be completely finished during the current construction season.

- q. Drain incomplete segments of permanent or temporary roads to be left over winter season or other extended periods, out sloping or ditching with cross drains, water bars, and diversion ditches to minimize soil erosion and stream siltation.
- r. Do not conduct earth moving activities when the soils are saturated. Construct grades through wet solid during dry season.
- s. Use grade changes (concave vertical curve) to turn water off roads, particularly to protect fills at stream crossings.
- t. Shut down construction during periods of heavy rainfall.

**L. THE FOLLOWING STANDARDS APPLY TO ROAD MAINTENANCE.**

- a. Maintain roads immediately after logging and whenever necessary by cleaning ditch lines, blade debris from empty landings, trimming damages culvert ends and chunking out culvert openings.
- b. Place all material obtained during maintenance of ditches, etc., in a safe bench or cove location. Never deposit such materials directly into a stream bed or in areas where the material can be washed into a stream during high flow periods.
- c. Retain out slope drainage and remove all beams on the outside edge, except those intentionally constructed for the protection of road grade-fills.
- d. Road surfaces shall be maintained to reduce erosion and water quality degradation potential by using water, surface binders, sealers or oilmats. Extreme care should be exercised to avoid excess application of any treatment.

**M. THE FOLLOWING STANDARDS APPLY TO ACTIVE ROADS.**

To the extent necessary to protect Reservation resources, the following maintenance shall be conducted on such roads:

- 1. Culverts, ditches, water bars and all other drainage structures must be kept open and functional and shall be inspected annually.
- 2. The road surface shall be maintained as necessary to minimize erosion of the surface and subgrade:
  - a. Roads shall be watered or treated with chemicals to prevent "powdering" of the road surface.
  - b. During and upon completion of the operation, road surfaces shall be crowned, out sloped or water barred and unnecessary beams removed to prevent erosion of the roadbed.

3. All ditches and drainage structures shall be cleaned of slash, debris, and siltation upon completion of operations. Structure damages or made less effective as a result of the operation shall be replaced or restored.

#### **N. THE FOLLOWING STANDARDS APPLY TO ABANDONED ROADS**

No subsequent maintenance of an abandoned road is required after the following procedures are completed:

1. Road surfaces shall be out sloped, water barred, re-vegetated or otherwise left in a stable condition suitable to prevent erosion.
2. Ditches shall be adequate to carry water loads and cleaned on completion of use.
3. Temporary culverts, bridges or other water crossing structures shall be removed.
4. The road shall be blocked to vehicular traffic and should be posted "Closed to Vehicular Traffic".

#### **O. THE FOLLOWING STANDARDS SHALL APPLY TO ROAD BALLAST AND WASTE DISPOSAL AREAS.**

a. Road ballast or gravel pits shall be located a safe distance from streamways. Pit runoff shall be directed away from the water course: Rock removal from stream beds overflow channels is not permitted.

b. During construction and operation of rock quarries, gravel pits or borrow pits, runoff water shall either be diverted to the forest floor or passed through one or more settling basins, as approved by the Environmental Department.

c. During operation, surface flows shall be prevented from passing through or out of borrow pit areas.

d. If rock is to be washed, provision must be made for adequate settling basins(s) to prevent airy stream siltation.

e. Spoil disposal shall be located:

1. Where the final slopes after completion of the project will be no greater than the fill slope ratios set forth in Section V., subsection J.(3), for the material dumped;
2. On areas having the lowest potential timber productivity, where practical;
3. On slopes where the erosion or mass soil movement is minimal;
4. All spoil will be placed to allow drainage without water ponding.

f. All rock quarries, gravel pits, spoil areas and borrow areas in use when these



regulations are adopted shall be reclaimed within two years from time the rock or gravel source is exhausted or abandoned. Reclamation procedures include:

1. Remove all deleterious material that has potential for damaging reservation resources or that would prevent re-vegetation of an otherwise plant able areas;
2. Grade all cut and fill slopes to the fill slope ratios-set forth in Section V., subsection J., for material present unless otherwise approved;
3. Re-vegetation to the extent practical.

#### **P. OPERATIONS DRAINAGE**

1. All surface waters which might damage re-graded slopes or drain into the exploration or mine operations will be intercepted on the uphill side of the highwall or other operations perimeters by diversion ditches and be conveyed by stable channels or other means to natural or prepared watercourses outside the operations area, unless the operator determines, with the written concurrence of the Environmental Department that such ditches and channels are unnecessary or would create a serious pollution problem. Such diversion ditches and channels shall be of sufficient size and grade to carry the twenty five year flow event. If diversion ditches are likely to carry surface water only intermittently, they should be re-topsoiled and re-vegetated with grasses, forbs and/or legumes. All diversion ditches and channels should be mapped or shown on the aerial photograph submitted with the permit application.
2. No surface-waters will be discharged through or permitted to infiltrate onto existing mine workings.
3. Surface waters and groundwater will be controlled to prevent their entry into mine workings.
4. All drainage from active exploration or mining operations shall be treated in impoundment or treatment facilities before discharge into a water course. Under no circumstances should water be discharged into highly erodible soli or spoil banks.
5. Spoil shall not be placed in drainage ways.
6. When cleaning underground sumps or tanks, the sediment shall never be flushed to a water course or deposited where it will wash into a lake or stream.

#### **VI. VIOLATIONS & PENALTIES**

**A. GENERAL PROVISIONS** The Environmental Department will implement this Code and all violations, notices, hearings and penalties shall be processed under the

Ramona Environmental Enforcement Ordinance.

**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit E  
Solid Waste Disposal Ordinance

# RAMONA BAND OF CAHUILLA INDIANS SOLID WASTE DISPOSAL ORDINANCE

## I. GENERAL PROVISIONS

### A. Purpose of this Ordinance.

To preserve and secure the health, comfort, welfare and safety of the Ramona Reservation community and protect the environment by regulating solid waste disposal practices.

### B. Authority to Enact Ordinance.

This Solid Waste Disposal Ordinance is enacted under the inherent sovereign authority of the Ramona Band of Cahuilla Indians.

### C. Applicability of Ordinance.

This Ordinance is intended to protect the community and environment of the Ramona Reservation to the fullest extent allowed by law. The provisions of this Ordinance are intended to and shall apply to all persons that enter or remain within the boundaries of the Reservation, all activities taking place within the Reservation, and all solid waste disposal activities that otherwise adversely impact the Reservation environment.

### D. Definitions.

- (1) "Approved site" means a site designated and approved by the Tribal Environmental Protection Agency as a site for collection and/or disposal of solid waste.
- (2) "Disposal" means the placing, discharge, deposit, injection, dumping, spilling, or leaking of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into tribal waters.
- (3) "Open Burning" means the burning of solid waste without:
  - (a) Control of combustion air to maintain adequate temperature for efficient combustion,
  - (b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and
  - (c) Control of the emission of the combustion products.
- (4) "Open Dump" means any facility or site where solid waste is disposed, other than a tribally-approved dumpster or transfer station, that is not a sanitary landfill meeting the requirements of federal law (including, but not limited to, section 4004 of the Resource Conservation and Recovery Act and implementing regulations).
- (5) "Permitted Contractor" is a person who has a valid contract with the Tribe, or a with a Reservation resident or business and approved by the Tribe, to recover, collect and transport

solid waste from the Reservation to a lawful waste disposal facility.

(6) "Person" means an individual, corporation, partnership, association, joint venture, trust, firm, joint stock company, federal, state, local or tribal governmental agency, or interstate body.

(7) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(8) "Solid Waste" has the same meaning given to it in the Resource Conservation and Recovery Act: specifically, all solid and semi-solid wastes including any garbage, trash, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from household, industrial, commercial, mining, or agricultural operations, and from community activities, such as ashes, dead animals, abandoned vehicles, infectious wastes, hazardous wastes, street and parking lot cleanings. As used in this Ordinance, "Solid Waste" does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under the federal Clean Water Act, as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

## **II. RESPONSIBILITY FOR STORAGE, TRANSPORTATION AND DISPOSAL OF SOLID WASTE**

- A. Any Person generating solid waste is responsible for lawfully storing such waste and for disposing of it in an Approved Site or arranging for its collection by a Permitted Contractor.
- B. Any Person storing solid waste generated by that Person, or generated by another Person and received for storage, shall be responsible for its proper storage and disposal.
- C. While being transported in a vehicle through the Reservation, solid waste shall be covered, tied or otherwise secured so that such waste will not be blown or dropped from the transport vehicle.
- D. When solid waste is dumped or deposited in violation of this Ordinance and two or more items in the solid waste identify the same Person as the owner or recipient of that waste, there shall be a rebuttal presumption that the identified Person is responsible for the unlawful dumping of solid waste.
- E. Any Person who by contract, agreement or otherwise arranges for the recovery, collection, transport, disposal or dumping of solid waste is responsible for complying with all provisions of this Ordinance and all other applicable law.

### III. PROHIBITED ACTS: UNLAWFUL STORAGE AND DISPOSAL OF SOLID WASTE

- A. No Person shall store or accumulate solid waste in a manner that is a hazard to the public health and safety, as determined by the Tribal Environmental Protection Agency; nor shall any Person continue to store or accumulate solid waste in such a manner for more than fifteen (15) days after receipt of written notice of the hazardous condition from the Tribal Environmental Protection Agency.
- B. No Person shall collect or transport solid waste within the Reservation unless the Person is a Permitted Contractor.
- C. No Person shall dump, deposit or dispose of solid waste at any location within the Reservation other than at an Approved Site.
- D. No Person shall conduct open burning of solid waste.

### IV. COMPLIANCE AND ENFORCEMENT

#### A. Compliance Assistance and Civil Penalties

- (1) If a person is found to have committed any act or omission in violation of sections II or III above, the person may be subject to one or more of the following civil penalties:
  - (a) civil fine of up to \$5,000 per violation
  - (b) clean-up order
  - (c) abatement order
  - (d) community service
  - (e) personal property forfeiture
  - (f) reimbursement for tribal clean-up and related costs
  - (g) cancellation of contract or lease
  - (h) exclusion from the Reservation
- (2) Compliance assistance may take the form of education, training, or financial or other assistance that aids a person to achieve and maintain compliance with tribal law, and may be an appropriate alternative to the imposition of civil penalties in the case of a person that desires to comply but is not reasonably able to do so without such assistance.
- (3) If the imposition of one or more civil penalties is found to be appropriate, these guidelines should be followed:
  - (a) The penalty should be proportionate to the severity of the violation and the harm suffered by the Reservation community and/or environment as a result of the violation
  - (b) Penalties should be imposed progressively (for example, a second offense would receive a more severe penalty than a first offense)
  - (c) Violations based on acts (or omissions) that are intentional or willfully disregard tribal law should receive more severe penalties than acts (or

omissions) that are accidental or based on the violator's inability to reasonably comply with tribal law

- (4) Penalties will be assessed, as appropriate, after thorough investigation of the matter, due process and an opportunity for hearing, and in accordance with the guidelines set forth in the following sections.

B. Authority of Tribal Environmental Protection Agency

- (1) To monitor activity within the Reservation and receive reports of potential violations of this Ordinance.
- (2) To conduct investigations of observed or reported violations and make preliminary determinations as to the existence and extent of any violations of this Ordinance.
- (3) To issue written Notices of Violation, Cease & Desist Orders and Abatement Orders, as appropriate, to Person(s) believed to have committed any violation(s) of this Ordinance
- (4) To make recommendations as to the appropriate resolution of any violations under this Ordinance, including compliance assistance or civil penalties, in accordance with section A above.

D. Authority of the Tribal Council

- (1) To conduct hearings if believed necessary or requested by an alleged violator, or otherwise thoroughly review the record to determine if a violation has occurred and if the alleged violator committed it.
- (3) To render decisions as to the existence of any violation(s) and to order, in accordance with section A above, any of the following dispositions:
  - (a) compliance assistance
  - (b) assessment of penalties in accordance with section A above
  - (c) initiation of a civil action against the violator(s) in any court of competent jurisdiction
  - (d) referral of the matter to federal, state or local authorities for criminal prosecution

F. Requests for Reconsideration

- (1) Any person that has been found to have committed a violation and has been assessed a civil penalty may request reconsideration of such decision by the Tribal Council. To be effective, the request for reconsideration must be made in writing within thirty (30) days after the person received written notice of the decision being appealed.
- (2) The decision of the Tribal Council on a request for reconsideration or, if none is timely made, the decision of the Tribal Council made under section E(3) above, shall be final and binding.

**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit F  
Trespass, Exclusion & Expulsion Ordinance,



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"A SOVEREIGN NATION"

## THE CODE OF LAWS OF THE RAMONA BAND OF CAHUILLA

### RESOLUTION NO. 2007.17 TRIBAL TRESPASS, EXCLUSION AND EXPULSION

**WHEREAS**, the Ramona Band of Cahuilla (the Band) is a federally recognized Indian tribe located in the Anza Valley of California; and

**WHEREAS**, the Band and the Ramona Reservation are governed by the Tribal Council, which includes the Chairman of the Tribal Council, and is legally empowered to do so pursuant to the Tribe's laws, having all the legislative powers and responsibilities of the Tribal Government; and

**WHEREAS**, at the date of the enactment of this Resolution and of Tribal Trespass, Exclusion and Expulsion Ordinance of the Code of Laws of the Ramona Band of Cahuilla, and

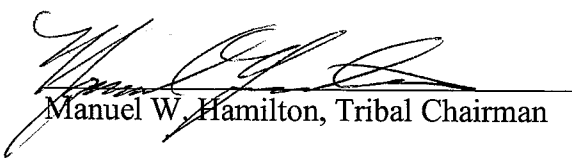
**WHEREAS**, the Band desires to establish rules and procedures to ensure that the Band's affairs, including its commercial enterprises and governmental functions, are secure to insure the health and safety of Tribal members and patrons.

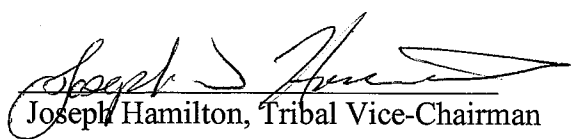
#### **NOW, THEREFORE BE IT RESOLVED:**

- 1) That the provisions contained in this Tribal Trespass, Exclusion and Expulsion Ordinance shall establish the rule and procedures to be followed in dealing with issues of trespass on Tribal lands and in Tribal businesses; and
- 2) That the Band, acting through its Tribal Council, hereby adopts the attached Trespass Code, as Tribal Trespass, Exclusion and Expulsion Ordinance of the Code of Laws of the Ramona Band of Cahuilla.

#### **CERTIFICATION**

We, the undersigned officials of the Ramona Band of Cahuilla do, hereby, certify that the foregoing Resolution was adopted by the Tribal Council by a vote of 2 in favor, 0 opposing, and 0 abstaining, at a duly called meeting on October 29, 2007 and that this resolution has not been rescinded or amended in any way.

  
Manuel W. Hamilton, Tribal Chairman

  
Joseph Hamilton, Tribal Vice-Chairman

**RAMONA BAND OF CAHUILLA INDIANS  
TRIBAL TRESPASS, EXCLUSION AND EXPULSION ORDINANCE**

**Section 1. Purpose**

The Purpose of this Ordinance is to protect and maintain the health, safety, welfare and property of the Ramona Band of Cahuilla Indians and its Members, and the Reservation environment, by providing a mechanism to expel and exclude from the Ramona Indian Reservation any Person who poses a threat to the environment or the well-being of the Tribal community.

**Section 2. Authority**

This Ordinance is enacted pursuant to the inherent sovereign authority and Customs and Traditions of the Ramona Band of Cahuilla Indians to protect its Members, the Ramona Indian Reservation, and the Reservation environment from intrusion and harm by Unauthorized Persons.

**Section 3. Definitions**

- (A) "Band Member" or "Member" means a duly enrolled member of the Ramona Band of Cahuilla Indians.
- (B) "Council" means the General Council of the Ramona Band of Cahuilla Indians.
- (C) "Non-Member" means a Person who is not an enrolled Member of the Ramona Band of Cahuilla Indians.
- (D) "Person" means an individual, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, society, political entity, receiver, assignee, trustee in bankruptcy, trust, estate, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.
- (E) "Ramona Band" or "Tribe" means the Ramona Band of Cahuilla Indians, a federally recognized Indian tribe.
- (F) "Reservation" means the Ramona Indian Reservation as it now exists, or may hereafter be supplanted.
- (G) "Trespass" means the unauthorized entry onto the Ramona Indian Reservation, or the commission of an act defined in Section 5 below as a trespass by a Person otherwise lawfully within the Ramona Indian Reservation.
- (H) "Tribal Office" means the principal place of Tribal government business of the Ramona Band of Cahuilla Indians, currently located at 56310 Highway 371, Anza, California, or as it may hereafter, from time to time, be relocated.
- (I) "Unauthorized Person" means (a) an "Unauthorized Non-Member," defined as a Non-Member who has no lawful authority or permission to enter or remain within the Ramona Indian Reservation; or (b) a Person who commits an act defined as a trespass under

Section 5(B)-(G) of this Ordinance while otherwise lawfully within the Ramona Indian Reservation.

**Section 4. Who May Be Excluded or Expelled**

Any Unauthorized Person may be excluded or expelled from the Reservation pursuant to the provisions of this Ordinance.

**Section 5. Trespass; Grounds for Exclusion or Expulsion**

The commission of any of the following acts constitutes a trespass warranting exclusion or expulsion from the Reservation, in addition to any other sanction that may be imposed under applicable Tribal, State or Federal law:

- (A) Entering or remaining within the Reservation without first obtaining authority or permission from the Council.
- (B) Failure or refusal to pay any taxes, rents, fees, or other charges due the Tribe after reasonable notice and opportunity to pay.
- (C) The commission, within the Reservation, of any act defined as a criminal offense under Tribal, State or Federal law.
- (D) Unauthorized taking of any property from the Reservation.
- (E) Any other act causing physical loss or damage of any nature to Tribal property or to the property of any Member.
- (F) Violation of any Federal or Tribal environmental protection law, or the commission of any other act that causes harm to the Reservation environment.
- (G) Any other action that constitutes a threat to the health, welfare, security, or property of the Tribe, any Member or any other Person that is lawfully present within the Reservation.

**Section 6. Process for Expulsion or Exclusion of Unauthorized Non-Members**

With respect to any Non-Member who has no lawful authority or permission to enter the Reservation, the Council may order the expulsion and/or exclusion of such Person, on a temporary or permanent basis, by written Resolution passed at a duly called meeting of the Council. The Resolution shall be enforced pursuant to the provisions of Section 13 below.

**Section 7. Process for Expulsion or Exclusion of Persons Other than Unauthorized Non-Members**

With respect to any Person who has prior lawful authority or permission to enter or remain within the Reservation, but commits an act that constitutes a trespass under Section 5(B) - (G) above, the provisions of Sections 8 through 14 govern the expulsion or exclusion of such Person from the Reservation.

**Section 8. Initiation of Expulsion or Exclusion Proceeding by Petition**

An expulsion or exclusion proceeding may be initiated by any Band Member or authorized representative of the Tribe, by submitting to the Tribal Office a written petition that states, in plain terms, the reason(s) for the proposed exclusion or expulsion.

**Section 9. Notice of Proposed Expulsion or Exclusion**

Upon receipt of an expulsion or exclusion petition, the Council shall issue or cause to be issued a notice of proposed expulsion or exclusion, stating the date, time and place at which the Person subject to the notice may appear before the Council to show cause why s/he should not be excluded or expelled from the Reservation. If necessary, the notice shall also state the time and manner in which the Person, or a representative thereof, may re-enter the Reservation in the company of an authorized Tribal representative for the purpose of attending the hearing (if the hearing is scheduled to take place on the Reservation), and shall advise the Person, or representative thereof, that s/he must be accompanied by an authorized Tribal representative at all times during his/her presence on the Reservation pending the outcome of the hearing.

**Section 10. Service and Posting of Notice**

- (A) The Council shall cause the notice, along with a copy of the petition, to be served on the Person subject to the petition and notice, by any of the following means:
  - (1) By personal service upon the Person, or authorized representative thereof, within seventy-two (72) hours after the issuance of the notice, documented by affidavit by the Tribal representative completing such service; or
  - (2) By posting the notice and petition by first-class U.S. Mail, postage prepaid, to the last known address of the Person, or authorized representative thereof, within twenty-four (24) hours of the issuance of the notice.
- (B) In addition, upon issuance the notice shall be posted at the Tribal Office and in at least two (2) additional conspicuous places within the Reservation.

**Section 11. Timing of Hearing**

The hearing shall take place not less than ten (10) days, nor more than thirty (30) days after the completion of service of the notice and petition; PROVIDED, that if the Council shall have reasonable cause to believe that an emergency exists, and the notice so states, the hearing may be held a minimum of twenty-four (24) hours after completion of service.

**Section 12. Order of the Council**

- (A) At the conclusion of the hearing, or after the time set for the hearing in the event the Person fails to appear or obtain a continuance thereof, the Council shall issue an order:
  - (1) Excluding or expelling the Person from the Reservation, or

- (2) Permitting the Person to enter and/or remain upon the Reservation on such conditions as the Council sees fit to impose, or
  - (3) Permitting the Person to enter and/or remain upon the Reservation without the imposition of any conditions.
- (B) The order of expulsion or exclusion shall remain in force until revoked by the Council unless the order specifically provides otherwise.

**Section 13. Enforcement of Orders of Exclusion or Expulsion**

If any Person ordered excluded or expelled from the Reservation does not promptly obey the order of expulsion or exclusion, the Council may (a) order immediate physical removal of such Person from the Reservation, and/or (b) take such other action as may be necessary and appropriate to enforce the terms of the order.

**Section 14. Physical Removal of Trespassers; Emergency**

In cases involving immediate danger to the environment, or to the life, health or property of the Ramona Band any Member, or any other Person that is lawfully present within the Reservation, or in which any delay would result in irreparable damage, the Council may, by written order, authorize the immediate removal of any Person or any of his/her property from the Reservation, either before or after the Person has been ordered excluded or expelled from the Reservation as provided in Section 11 above. If service of the notice of proposed expulsion or exclusion has not already been made as provided for in Section 10 above, the Council shall cause the notice to be served upon the Person, or representative thereof, at the time of removal, or as soon thereafter as possible.

**SECTION VIII  
OTHER TRIBAL ORDINANCES APPLICABLE TO PROJECT**

Exhibit G  
Wildlife Protection Ordinance

The Ramona Environmental Department may issue permits to designated hunters, on behalf of individuals, for the harvest of deer only. Requests for permits under this section must be submitted in writing to the Ramona Environmental Department. Requests must state why the person or family making the request is unable to hunt for himself or herself. All the provisions of this ordinance and Ramona game regulations shall apply to hunting under this section. All requests under this section must be approved by the Ramona Environmental Department.

## **12. Designated Hunter**

Any member of the Tribe possessing a valid tribal hunting permit may submit his or her name to the Ramona Environmental Department to be considered for placement on a list of "designated hunters." The Ramona Environmental Department shall screen applicants to determine whether they meet eligibility requirements. Eligibility requirements for designated hunters are:

- a) Demonstrated hunting ability;
- b) Be at least 18 years old;
- c) Having no tribal hunting conviction for the previous two years;
- d) Persons prohibited from carrying a firearm under tribal, state, or federal law are not eligible.

Any person who meets the eligibility requirements may be recommended by the Ramona Environmental Department to the Tribal Council for appointment as a designated hunter. The Tribal Council shall notify the Ramona Environmental Department of designated hunter appointments. When the Ramona Environmental Department grants a request under Section 11 or 12 of this ordinance, it shall notify a designated hunter and issue the appropriate permit. The designated hunter shall comply with the terms of the permit and all other applicable laws and regulations.

## **II. CIVIL VIOLATIONS**

### **1. Hunting -Permits and Tags**

Any person who fails to obtain a valid permit and tags required by regulation has committed a civil violation and shall be assessed:

- (a) A mandatory, minimum civil fine of \$500.00.
- (b) The maximum civil fine which may be imposed is \$1000.00.
- (c) Any person who has committed a first violation of this Section shall have his or her hunting privileges revoked for not less than one year, not to exceed three years.

### **2. Hunting -Permit and Tags in Possession**

Any person who has obtained a valid permit and tags required by this ordinance or tribal regulation but who does not have the permit and tags in his or her possession while hunting or transporting wildlife, has committed a civil violation and shall be assessed:

# **RAMONA BAND OF CAHUILLA WILDLIFE PROTECTION ORDINANCE**

## **I. GENERAL PROVISIONS**

### **1. Title**

This ordinance shall be known as the 'Ramona Band of Cahuilla Wildlife Protection Ordinance.'

### **2. Declaration of Policy**

The Ramona Tribal Council finds that the availability of wild game is a valuable community resource and that unregulated hunting of game has potentially damaging consequences for the tribal community. Accordingly, this ordinance is enacted for the protection of the tribal game resource.

### **3. Definitions**

The words below shall have the meanings set forth, when those words appear in this ordinance.

(a) "Adult" means any person who is eighteen (18) years or older.

(b) "Bag limit" means the maximum number of animals which may be taken, caught, killed, or possessed by any person, specified by ordinance or regulation, for any particular period of time, and may include limits on size, sex or species.

(c) "Big Game" means elk, deer, mountain goat, cougar or mountain lion, black bear, and mountain sheep or bighorn.

(d) "Closed Area" means any place described or designated by regulation where it is unlawful to hunt.

(e) "Closed season" means all times during the entire year except those times an "open season" is designated by regulation.

(f) "Game animals" means wild animals other than "big game animals" and marine mammals that are classified by regulation as game animals.

(h) "Game birds" means all wild birds that are classified by regulation as game birds.

(i) "Hunt" and its derivatives, "hunting," "hunted," etc., and "trap" and its derivatives, "trapping," etc., mean any effort to kill, injure, capture, or disturb a wild animal or wild bird.

(j) Muzzle-loader means a single or double-barrel wheel lock, matchlock, flintlock or percussion rifle with exposed ignition in which the black powder and ball or bullet must be loaded from the muzzle.

(k) "Open season" means those times, manners of taking and areas established by regulation for lawful hunting. "Open season" includes the first and last days of the established time, unless otherwise specified.



- (l) "Public Roads" means those roads maintained by the county or the State of California.
- (m) "Regulation" means any rule or regulation promulgated by the Ramona Tribal Council.
- (n) "Revocation of hunting privileges" means the recall of all rights and privileges granted by a Ramona Band of Cahuilla Game Permit and the loss of eligibility to apply for a Ramona Tribal Game Permit, for the duration specified by this ordinance.
- (o) "Ramona Tribal Member" or "Member" means an enrolled member of the Ramona Tribe.
- (p) "Tribal Ceremonies" means 1) religious ceremonies and 2) other ceremonies and functions which are held by or for the Ramona tribal community.
- (q) "Tribal Council" means the Ramona Tribal Council.
- (r) "Tag" means a card, label or other identification device issued for attachment to the carcass of any game animal.
- (s) "Tribe" means the Ramona Band of Cahuilla.
- (t) "Wildlife" means all species of the animal kingdom whose members exist within the jurisdiction of the Ramona Tribe, except fish and domesticated animals.

#### **4. Jurisdiction**

- (a) Territory: The provisions of this ordinance and all rules and regulations adopted under it shall apply to the full extent of the sovereign jurisdiction of the Ramona Tribe.
- (b) Persons: The provisions of this ordinance apply to all persons to all persons hunting within the exterior boundaries of the Ramona Reservation to the fullest extent permissible under applicable law.
- (c) Jurisdiction under this ordinance shall be governed by this section and is not limited by inconsistent provisions of other ordinances of the Tribe unrelated to hunting or by inconsistent court rules.

#### **5. Violation of 18 U.S.C. 1165**

To the extent authorized by federal law, all lands within the Ramona Indian Reservation are closed to hunting by non-tribal members. Violators shall be:

- (a) Deemed to be hunting on the Ramona Indian Reservation without lawful authority or permission, as those terms are used in 18 U.S.C.1165 and, when applicable, shall be referred for federal criminal prosecution; and
- (b) Subject to a mandatory, minimum civil fine of \$100.00 and a maximum civil fine of \$1,000.00: and/or
- (c) Expelled from the Ramona Indian Reservation.

#### **6. Annual Regulations**

- (a) Prior to each hunting season, the Ramona Environmental Department shall formulate and recommend to the Tribal Council any annual and seasonal regulations which are necessary to carry out the purposes of this ordinance. The regulations may establish open seasons, areas, closed or open to hunting or trapping, bag limits, limitations on methods of taking game, and other measures for the protection and wise harvest of

game resources.

(b) Before proposing regulations as provided in this section, the Ramona Environmental Department shall make an effort to get available information on the abundance and territories of various animal species within areas of Tribe's jurisdiction.

## **7. Emergency Regulations**

(a) The Ramona Environmental Department may make emergency changes in annual or seasonal hunting regulations whenever it gets information which indicates that the changes are necessary for proper management of game resources in areas under tribal jurisdiction.

(b) Emergency regulations shall take effect as soon as they are adopted or at the time specified in the regulations. They shall remain in effect until withdrawn by the Ramona Environmental Department until they lapse by their own terms, or until the Tribal Council withdraws them.

(c) All emergency regulations must be posted promptly at several public locations on the reservation and must indicate the date and hour they were adopted. No penalty shall be imposed for violation of an emergency regulation unless 24 hours have passed since the regulation was issued or unless the violation was served personally with a notice of the regulation before the violation occurred.

## **8. General Closure**

The Ramona Reservation is closed to hunting of wildlife unless specifically opened by regulations pursuant to this ordinance. All other areas within the Tribe's jurisdiction are closed to hunting of wildlife by enrolled tribal members unless specifically opened by regulations pursuant to this ordinance.

## **9. Eligible Hunters**

Enrolled members of the Ramona Tribe and all other persons who have been issued a tribal hunting permit are eligible to exercise hunting rights under the authority of this ordinance.

## **10. Hunting for Ceremonial Use/Extreme Personal Hardship**

The Ramona Environmental Department may issue "designated hunter" permits to allow wildlife to be bagged for funerals, tribal ceremonies, and in cases of extreme personal hardship. The permit shall specify the type, sex, and number of animals to be hunted, and any other conditions the Department attaches. Permits under this section may be issued for use during a closed season. The Ramona Environmental Department shall authorize a "designated hunter" to receive the permit. Requests for permits under this section must be submitted in writing to the Ramona Environmental Department. The writing requirements may be waived for applications to hunt for funeral purposes due to the limited time available.

## **11. Hunting for Another**

The Ramona Environmental Department may issue permits to allow a "designated hunter" to hunt for another member of the Tribe. The hunting of deer by a designated hunter on behalf of an individual is not allowed. The Ramona Environmental Department may authorize designated hunters to harvest deer for ceremonial and community events.

(a) The mandatory, minimum civil fine of \$150.00.

(b) The maximum civil fine which may be imposed is \$500.00.

### **3. Persons Barred from Obtaining a Permit and Tag**

(a) Any person who meets either of the following criteria is barred from obtaining a hunting permit and tags:

(1) Any person who is prohibited from carrying or possessing a firearm under tribal, state, or federal law.

(2) Any person who fails to pay in full all hunting fines assessed by the Tribal Council.

(b) It is a civil violation to obtain or attempt to obtain a permit or tags when barred under this section.

(c) A person who violates this section shall be assessed:

(1) A mandatory, minimum civil fine of \$250.00.

(2) The maximum civil fine which may be imposed is \$500.00.

### **4. Hunting During Closed Season**

Any person who hunts during a closed season as established by this ordinance or by regulation has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$250.00.

(b) The maximum civil fine which may be imposed is \$1,000.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

### **5. Possession of Wildlife Taken During a Closed Season**

Any person who possesses any wildlife killed during a closed season or who has otherwise taken or killed wildlife contrary to the provisions of this ordinance or regulations has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$250.00.

(b) The maximum civil fine which may be imposed of \$ 1,000.00

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

### **6. Hunting in Closed Areas**

Any person who hunts within the boundaries of a closed area designated by this ordinance or regulation has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$500.00.

(b) The maximum civil fine which may be imposed is \$5,000.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

#### **7. Bag Limits**

Any person who exceeds the bag limit set by regulation has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$250.00.

(b) The maximum civil fine which may be imposed is \$1,000.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

#### **8. Reporting Bagged Game**

Any person who fails to return any game tag issued to him or her, within the time limit specified by regulation regardless of whether an animal was harvested, and any person who fails to report the species, sex, date and location of kill shall be assessed:

(a) A civil fine of up to \$500.00.

(b) The maximum civil fine which may be imposed is \$1,000.00.

#### **9. Trap Inspection**

Any person who fails to inspect any trap or trap line he has set and such failure results in spoilage of game, has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$100.00.

(b) The maximum civil fine which may be imposed is \$250.00.

#### **10. Interference with Traps**

Any person who takes wildlife from another person's trap without permission, or springs, damages, possesses or removes another person's trap, has committed a civil violation and shall be assessed:

(a) A minimum, mandatory civil fine of \$100.00.

(b) The maximum civil fine which may be imposed is \$250.00.

#### **11. Wasting Big Game**

Any person who kills big game and causes it to go to waste, has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$500.00.

(b) The maximum civil fine which may be imposed is \$5,000.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

## **12. Wasting Game Birds or Game Animals**

Any person who kills game birds or game animals and causes them to go to waste, has committed a civil violation and shall be assessed:

(a) A minimum, mandatory civil fine of \$50.00.

(b) The maximum civil fine which may be imposed is \$250.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year.

## **13. Selling Wildlife**

Any person who sells meat from wildlife has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$500.00, and

(b) The maximum civil fine which may be imposed is \$5,000.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

## **14. Transporting Big Game without a Tag**

Any person who transports a big game animal that they have killed without a valid tag affixed to the animal has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$100.00.

(b) The maximum civil fine which may be imposed is \$250.00.

## **15. Transporting Loaded Firearms**

Any person, except authorized law enforcement officers, who carries, transports, conveys, or possesses a shotgun or rifle containing shells or cartridges in the magazine or chamber, or a muzzle-loading firearm loaded and capped or primed; in or on a motor vehicle has committed a civil violation and shall be assessed:

(a) A minimum, mandatory civil fine of \$100.00.

(b) The maximum civil fine which may be imposed is \$250.00.

## **16. Shooting Firearms Across Public Roads**

Any person, except authorized law enforcement officers, who discharges a firearm from, across or along the maintained portion of a public road has committed a civil violation and shall be assessed:

- (a) A minimum, mandatory civil fine of \$100.00.
- (b) The maximum civil fine which may be imposed is \$250.00.

**17. Hunting from a Vehicle**

Any person who hunts from within or upon a motor vehicle has committed a civil violation and shall be assessed:

- (a) A mandatory, minimum civil fine of \$100.00
- (b) The maximum civil fine which may be imposed is \$250.00.

**18. Hunting with Artificial Light**

Any person who hunts with an artificial light has committed a civil violation and shall be assessed:

- (a) A minimum, mandatory civil fine of \$250.00.
- (b) The maximum civil fine which may be imposed is \$500.00.
- (c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

**19. Use of Dogs**

Any person accompanied by a dog while deer or elk hunting has committed a civil violation and shall be assessed:

- (a) A minimum, mandatory civil fine of \$250.00.
- (b) The maximum civil fine which may be imposed is \$500.00.

**20. Hunting While Intoxicated**

Any person who hunts while under the influence of alcohol or illegal drugs has committed a civil violation and shall be assessed:

- (a) A minimum, mandatory civil fine of \$250.00.
- b) The maximum civil fine which may be imposed is \$500.00.
- (c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

**21. Hunting by Persons Under Age Eighteen**

No person under age eighteen (18) shall hunt unless accompanied by a parent/guardian and possess proof of completion of a course of instruction of at least six hours in safe handling of firearms, safety, conservation, and sportsmanship. Parents and guardians of children who violate this section are responsible for the child's acts and the parents or guardians or shall be assessed:

- (a) A minimum, mandatory civil fine of \$250.00.
- (b) The maximum fine which may be imposed is \$500.00.
- (c) The Tribal Council, in its discretion, may allow the defendant to perform community service in lieu of part of the fine.

This section shall not apply to any persons certified by the Ramona Environmental Department to be a head of household.

## **22. Shooting a Person**

Any person who shoots another person while hunting has committed a civil violation, and shall be assessed restitution to the victim or the victim's family.

- (a) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

## **23. Hunting Eagles**

Any person who kills, takes, catches, or possesses any eagle, or eagle part, nest or egg in violation of any federal statute passed for the protection of eagles has committed a civil violation and shall be assessed:

- (a) A mandatory, minimum civil fine of \$500.00.
- (b) The maximum civil fine which may be imposed is \$5,000.00.
- (c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

## **24. Laying Out Bait**

Any person who lays or sets out any bait, including but not limited to salt licks, to lure wildlife other than mountain lion and black bear for hunting and furbearers for trapping, has committed a civil violation and shall be assessed:

- (a) A minimum, mandatory civil fine of \$50.00.
- (b) The maximum civil fine which may be imposed is \$250.00.

## **25. Laying Out Poison**

Any person who lays or sets out a drug, explosive or poison that may endanger, injure or kill wildlife has committed a civil violation and shall be assessed:

- (a) A minimum, mandatory civil fine of \$500.00.

(b) The maximum civil fine which may be imposed is \$1,000.00.

## **26. Mutilation of Wildlife**

Any person who mutilates wildlife so that the species and sex cannot be determined visually in the field or while being transported has committed a civil violation and shall be assessed:

(a) A minimum, mandatory civil fine of \$250.00.

(b) The maximum civil fine which may be imposed is \$500.00.

## **27. Shooting Livestock**

Any person who shoots any domestic livestock while hunting has committed a civil violation and shall be assessed:

(a) A minimum, mandatory civil fine of \$500.00, and

(b) The Tribal Council shall require the defendant to pay restitution to the owner of any livestock damaged.

## **28. Big Game Hunting -Firearms Restrictions**

(a) No person shall hunt big game with any of the following:

(1) A fully automatic firearm; or

(2) A rifle with a bore diameter less than .240 of an inch (61010), or barrel length less than 16 inches; or

(3) A rifle cartridge with a bullet weighing less than 85 grains, or that develops less than 900 foot pounds of energy at 100 yards; or

(4) A rifle cartridge containing a bullet other than a mushrooming or expanding type, designated for big game hunting; or

(5) A shotgun; except that a shotgun which is 20 gauge or larger, using shells loaded with slugs or buckshot size # 1 or larger, may be used to hunt deer and bear; or

(6) A handgun; except that a deer, bear or cougar may be hunted with a 41 magnum, 44 magnum, 44 automatic magnum, 45 Winchester magnum; or

(7) A bow that possesses less than 40 pounds of pull, measured at 28 inches or less draw length; or

(8) Any arrows, except those having sharp broaden blade or blades at least seven-eighths inches wide. The broad head must be un-barbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width forming a smooth line toward the feather end of the shaft and such line shall not angle toward the point; or

(9) A crossbow.

(b) Any person who violates this Section shall be assessed:

(a) A mandatory, minimum civil fine of \$250.00.



(b) The maximum civil fine which may be imposed is \$1,000.00 and mandatory revocation of hunting privileges for one calendar year from the date of conviction.

**29. Reckless Endangerment**

Any person who, through negligent or reckless conduct, places domestic livestock or another person in risk of serious physical harm has committed a civil violation, and shall be assessed:

(a) A mandatory, minimum civil fine of \$500.00 in the case of domestic livestock.

(b) A mandatory, minimum civil fine of \$5,000.00 in the case of another person.

(c) Any person who has committed a first violation of Section 7.03.050 shall have hunting privileges revoked for not less than one year, not to exceed three years.

**30. Game Birds -Special Restrictions**

(a) No person shall hunt game birds with:

(1) Lead shot, except grouse may be hunted with lead shot;

(2) A shotgun larger than 10 gauge; or

(3) A rifle or pistol.

(b) Any person who violates this section shall be assessed:

(a) A mandatory, minimum civil fine of \$100.00.

(b) The maximum civil fine which may be imposed is \$250.00.

**31. Muzzle-Loading Rifles**

No person shall carry or possess any muzzle-loading rifle which does not meet the following requirements: If the rifle has a removable breech plug, such removal must require the use of tools. Minimum barrel length is 20 inches and minimum caliber is 40, such measurement to be taken from the land to land in the barrel. Ignition is to be wheel lock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the elements. Sights must be metal. Telescopic sights or sights containing glass are prohibited. This section shall not apply to carrying a muzzle-loading pistol. Any person who violates this section shall be assessed:

(a) A mandatory, minimum civil fine of \$100.00

(b) The maximum civil fine which may be imposed is \$1,000.00 and mandatory revocation of hunting privileges for one calendar year from date of conviction.

**32. Defacing**

Any person who destroys, tears down, shoots at, defaces or erases any printed matter or sign placed or posted to assist in the enforcement of hunting regulations has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$50.00

(b) The maximum civil fine which may be imposed is \$ 150.00

**33. Resisting**

Any person who resists or obstructs any duly authorized tribal agent in the discharge of his duties under this ordinance or regulations has committed a civil violation and shall be assessed:

(a) A minimum, mandatory civil fine of \$250.00.

(b) The maximum civil fine which may be imposed is \$1,000.00.

**34. Aiding and Abetting**

Any person who knowingly aids and abets another person to engage in conduct which is unlawful under this ordinance or regulation has committed a civil violation and shall be assessed the same civil fine as if he or she had committed the primary violation.

**35. Hunting While Privilege is Revoked**

Any person who hunts or obtains a hunting permit while his or her hunting privilege is revoked has committed a civil violation and shall be assessed:

(a) A mandatory, minimum civil fine of \$500.00

(b) The maximum civil fine which may be imposed is \$1,000.00.

(c) Any person who has committed a first violation of this Section shall have hunting privileges revoked for not less than one year, not to exceed three years.

**36. Unauthorized Transfer of Permit, Identification or Tags Prohibited**

Any person who transfers any permit, tag or identification issued to him or her under this ordinance or regulations to another person for the purpose of allowing the transferee to engage in hunting, and any person who uses any permit, tag or identification issued to another under this ordinance or regulation has committed a civil violation and shall be assessed:

(a) A minimum mandatory civil fine of \$250.00.

(b) The maximum civil fine which may be imposed is \$500.00.

**37. Violation of Regulations and Permit**

(a) Any person who fails to comply with:

(1) Any provisions of this ordinance;

(2) Any tribal hunting regulation; or

(3) The terms or conditions stated on any hunting permit or tag;

(b) When such failure has not been specifically designated as an offense under this Ordinance or which does not carry with it a specific penalty, has committed a civil violation and shall be assessed:

- (a) A minimum mandatory civil fine of \$500.00.
- (b) The maximum civil fine which may be imposed is \$1,000.00.

**38. Failure to Produce Identification, Permit, and Tags to Tribal Official**

Any person who fails to produce for examination, his or her identification and permits required by this ordinance or regulations, upon demand by any tribal, state or federal enforcement officer, has committed a civil violation and shall be assessed:

- (a) A minimum mandatory fine of \$100.00.
- (b) The maximum civil fine which may be imposed is \$250.00.

**39. Assault**

Any person who uses or threatens to use force or violence against a tribal official or any other person has committed a civil violation and shall be assessed:

- (a) A minimum mandatory civil fine of \$500.00.
- (b) The maximum civil fine which may be imposed is \$1,000.00.

**40. Eluding**

Any person who fails to or refuses to stop after being given a visible or audible signal by a tribal official has committed a civil fine and shall be assessed:

- (a) A minimum mandatory civil fine of \$250.00.
- (b) The maximum civil fine which may be imposed is \$500.00.

**41. Giving False Information To An Officer**

Any person who knowingly gives false information to a Game Agent has committed a civil violation and shall be assessed:

- (a) A minimum mandatory civil fine of \$250.00.
- (b) The maximum civil fine which may be imposed is \$500.00.

**42. Failure to Appear/Respond**

Any person who fails to appear and respond as required by a civil citation, summons, subpoena or notice of hearing issued under this ordinance has committed a civil violation and shall be assessed:

- (a) A minimum mandatory civil fine of \$500.00.

(b) The maximum civil fine which may be imposed is \$1,000.00.

#### **43. Interference with Wildlife Management Personnel**

Any person who willfully interferes with or prevents wildlife management personnel of the tribe, the Point No Point Treaty Council, or state or federal agencies from carrying out their professional management duties has committed a civil violation and shall be assessed:

(a) A minimum mandatory civil fine of \$250.00.

(b) The maximum civil fine which may be imposed is \$500.00.

#### **44. Hunting Other Than Daylight Hours**

Any person who hunts other than day light hours, which is 1/2 hour before sunrise and 1/2, hour after sunset, has committed a civil violation and shall be assessed:

(a) A minimum mandatory civil fine of \$100.00.

(b) The maximum civil fine which may be imposed is \$250.00.

### **III. ASSESSMENT OF CIVIL PENALTIES**

#### **1. Civil Fines**

As unlawful hunting harms the whole tribal community, the penalties set forth in this ordinance are intended to be compensatory rather than punitive. Penalties listed for each offense apply to first violations of the ordinance. The Tribal Council shall not suspend or reduce any minimum penalty under this ordinance.

#### **2. Repeat Offenders**

Any person who has committed a second or subsequent violation of this ordinance (whether the same or a different violation) within five years of the first violation shall be assessed civil penalties as follows:

(a) A minimum, mandatory civil fine in an amount which is twice the minimum, mandatory civil fine for a first violation of that particular section of this ordinance. The Tribal Council may impose a maximum civil fine not to exceed twice the maximum civil fine for a first violation; and

(b) Except as provided in subsection (c) below, revocation of all hunting privileges for up to one year and not to exceed three years.

(c) Any person who commits a second or subsequent violation of the Section 4. Hunting During a Closed Season; 5. Possession of Wildlife Taken in a Closed Season; Section 6. Hunting in Closed Areas; Section 7. Bag Limits; Section 11. Wasting Big Game, Section 13. Selling Wildlife; Section 18. Hunting with Artificial Light; Section 22.

Shooting a Person; Section 23. Hunting Eagles; Section 28. Big Game Firearms Restrictions; Section 29. Reckless Endangerment; Section 31. Muzzle-Loading Rifles; and Section 35. Hunting While Privileges Revoked shall be assessed the same penalty as subsection 1. Above and revocation of all hunting privilege for not less than three years and not to exceed five years.

#### **IV. CIVIL ENFORCEMENT**

The Ramona Tribe has adopted an Environmental Enforcement Code which sets forth the civil procedures designed to protect the game resource from violations under this ordinance by all persons over whom the Tribe has jurisdiction and to provide for the fair and efficient administration of justice.

##### **1. Tribal Council**

The Ramona Tribal Council shall have jurisdiction over cases under this ordinance and hunting regulations. The jurisdiction of the Tribal Council over persons and territory shall be the fullest permissible under the Constitution of the Tribe and other laws applicable to the Tribal Council. The procedural rules for the Tribal Council shall be provided for under the Environmental Enforcement Code.

##### **2. Environmental Protection Department**

The Ramona Environmental Protection Department shall serve as the department responsible for implementing this ordinance. The Tribal Council may appoint or employ one (1) more persons to within the Department to serve as the lead enforcement officer of this ordinance. The Department shall have the authority to enforce this ordinance and all hunting regulations.

##### **3. Searches With or Without Warrant**

(a) A official from the Environmental Protection Department, while enforcing this ordinance, may search without warrant any gear, vehicle, tent, camper, or any place or premises at or near a hunting site which the official has probable cause to believe contains evidence of violations of this ordinance or of regulations or permits issued or adopted under this ordinance.

(b) The Tribal Council may issue a search warrant and direct a search to be made in any place wherein it is alleged that any evidence of violation of this ordinance or regulations of the Tribe are concealed or kept.

##### **4. Seizure of Wildlife**

(a) Upon issuance of a citation, the tribal official may seize all wildlife and parts of wildlife which the official has reasonable grounds to believe have been taken or killed by the alleged violator contrary to the provisions of this ordinance, or any regulations promulgated hereunder. The tribal official may, in addition, seize any weapons or other paraphernalia (excluding the hunter's vehicle) which the official has reasonable grounds to believe has been used in the commission of a violation of this ordinance or any regulation promulgated hereunder.

(b) A tribal official who has seized wildlife, weapons or other items pursuant to this section shall prepare a written inventory of all items seized which shall be signed by the official and the alleged violator. When unattended gear and/or its contents are seized, the inventory shall be signed by the official. In all cases, one copy of the inventory shall be given to the alleged violator, if known, one copy filed with the Tribal Council, and one copy returned to the Ramona Environmental Department.

(c) All items, other than perishable wildlife and wildlife parts, seized pursuant to this section shall, as soon as practicable, be brought to the tribal office or other place designated by the Tribe for the storage of seized property.

Seized property shall be stored in such a manner as to minimize further damage to it and shall be held until disposed of pursuant to order of the Tribal Council.

#### **5. Return of Seized Property -Perishable**

Any person who has had perishable meat seized under the authority of this ordinance may elect to have the meat frozen and stored, if storage facilities are available, pending the outcome of court proceedings, or to have the Ramona Environmental Department dispose of the meat for tribal purposes. If the person is acquitted or charges are dismissed, the frozen meat shall be returned or, if the meat was disposed of by the Ramona Environmental Department the person shall be issued a permit to bag a replacement animal.

#### **6. Return of Seized Property -Non-perishable**

(a) Any person whose property has been seized under the authority of this ordinance may apply immediately to the Tribal Council for release of said property. The Tribal Council may order immediate return of said property if the Council determines that said release is in the best interest of the wildlife resource and is not needed as evidence. The Council shall not release weapons until the final disposition of the case and all fines are paid. The Tribal Council shall expedite all hearings requested under this section.

(b) If the person whose property has been seized pursuant to the ordinance or charges against the person are dismissed, the Council shall order immediate return of the property.

#### **7. Forfeiture Procedures**

(a) When a person is found to have committed a violation of this ordinance or any regulation promulgated pursuant thereto, the Tribal Council may order forfeiture of any items seized in connection with the violation. Forfeiture of any weapon shall be mandatory if a person is found to have committed a violation of Section 29. Reckless Endangerment; Section 22. Shooting a Person; Section 4. Hunting During Closed Season; Section 28. Big Game Hunting -Firearms Restrictions. The defendant shall be given the opportunity to present evidence and argument to the Tribal Council regarding why it would be inequitable to forfeit those items seized.

(b) In all cases where the owner of items seized is unknown, the Tribal Council shall have the power to order the forfeiture of any articles so seized.

(c) The tribal official who makes a seizure shall immediately post at prominent public locations on the Reservation a notice describing the items and the time and place of seizure. The notice shall provide that persons wishing to claim the articles must do so within (10) days after the notice is posted.

(d) If no one claims unmarked articles pursuant to this ordinance within the time limit provided, the Ramona Environmental Department may dispose of it. Any proceeds from disposition of the property shall be turned over to the Tribe.

(e) If a person does claim unmarked articles seized by a game agent, the Tribal Council shall hold an expedited hearing to determine whether the property shall be returned to the owner.

#### **8. Disposition of Property Forfeited**

In the event the Tribal Council orders forfeiture of articles seized, the articles shall be turned over to the Ramona Environmental Department for the use and benefit of the Tribe. Any items or proceeds not forfeited by the order of the Tribal Council shall be returned to the person from whom seized, after the completion of the case and after the fines, if any, have been paid.

#### **9. Severability**

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