



**BEAR RIVER BAND
OF THE ROHNERVILLE RANCHERIA**

EXCLUSION ORDINANCE

SECTION 2.50.01 PURPOSE

It is the inherent and sovereign authority of the Bear River Band of the Rohnerville Rancheria (“Tribe”) to exclude any person from its lands who are found to threaten or directly affect the Tribe’s domestic tranquility, political integrity, economic security, health, safety or welfare. In exercising its sovereign authority to exclude persons, the Tribe does so through its civil jurisdiction to regulate all persons on tribal lands. The purpose of this Ordinance is to provide the procedures that will be used by the Tribe in emergency and non-emergency cases of exclusion of non-Indians and non-member Indians. This Ordinance is written in compliance with Tribal custom and tradition and the Indian Civil Rights Act of 1968, 25 U.S.C. 1301 et seq.

SECTION 2.50.02 STATUTORY AUTHORIZATION

The Bear River Band of the Rohnerville Rancheria is a federally recognized Indian Tribe that has inherent civil authority over all persons within the exterior boundaries of its trust lands. All federally recognized Indian Tribes, by and through governing body, may authorize the immediate exclusion of any person from any land or property owned by the tribe pursuant to federal and tribal law. The Bear River Band of the Rohnerville Rancheria finds it necessary to regulate the conduct of all persons within the exterior boundaries of the Rancheria and the Bear River Tribal Council, pursuant to its inherent authority and federal law, adopts the following Ordinance governing the exclusion of non-Indians and non-member Indians from the lands of the Bear River Band of the Rohnerville Rancheria.

SECTION 2.50.03 DEFINITIONS

1. *Bear River Band Tribal Court* or *Court* shall mean the judicial branch of the Tribe as designated and authorized under the Act Establishing the Judiciary.
2. *Non-Indian Person* shall mean a person who is not an enrolled member of, or eligible to be enrolled in a recognized or non-recognized Tribe. It shall also include non-tribal or non-Indian owned corporations, businesses, partnerships, sole proprietors and other commercial enterprises located on Tribal Lands.
3. *Non-Member Indian* shall mean a person that is an enrolled member of, or eligible to be enrolled in a recognized Tribe other than the Bear River Band of the Rohnerville Rancheria Tribe.
4. *NINMI* shall mean Non-Indian and Non-Member Indian collectively.
5. *Petitioner* shall mean the Tribal Chief of Police or Tribal Council Chairperson who submits a petition under this Ordinance.
6. *Respondent* shall mean the person against who the petition is filed.

7. *Tribal Lands* shall mean all land and property owned by the Tribe to include land held in trust for the Tribe by the United States.
8. *Tribal Police Officer* shall mean any sworn law enforcement officer authorized to enforce law on Tribal Lands.

SECTION 2.50.04 PERSONS SUBJECT TO REMOVAL AND EXCLUSION

Any NINMI on the Bear River Band of the Rohnerville Rancheria may be removed and excluded from all or any part of the Tribal Lands pursuant to Section 2.50.05.

SECTION 2.50.05 GROUNDS FOR EXCLUSION

Any NINMI may be excluded on one or more of the following grounds:

1. Failure or refusal by NINMI to pay Bear River Band Tribal Court ordered fines and/or fees.
2. Convicted of a crime or civil infraction under federal, state, or Tribal law;
3. The use, manufacturing and/or trafficking of a “controlled substance” as defined under Section 3.25.06 subsection 5) in the Tribes Peace and Security Ordinance or Schedule 1 under the federal “Controlled Substance Act”;
4. Entry into the home or onto the land of any tribal member without consent of the owner, co-owner or occupant with authority to grant consent to enter;
5. Entry into an area on the Bear River Band of the Rohnerville Rancheria in violation of an order of the Chairperson of the Tribal Council designating such area as closed;
6. Any conduct that causes or poses clear and continuing danger to the health and safety of a tribal member, members or to tribal or tribal member property;
7. Unauthorized trading and prospecting;
8. Unauthorized mining, timber cutting, or other activity causing physical loss or damage of any natural resource on the Bear River Band of the Rohnerville Rancheria;
9. Interference with or photographing of Tribal ceremonies without the consent or permission of the tribal members involved;
10. Commission of fraud, confidence games, or loan-sharking against tribal members or inducing such members into grossly unfavorable contracts of any nature.
11. Defrauding any tribal member of just compensation for their labor or services of any nature done at the request of a NINMI;
12. Hunting, fishing, or trapping without permits required under state and/or tribal laws;
13. Failure or refusal to pay any taxes, costs, fines, or other debts owed due the Bear River Band of the Rohnerville Rancheria after reasonable notice and opportunity to pay; and/or
14. Engaging in physical and verbal altercations with another person or persons, causing loud noise, using offensive words in a public place (disturbing the peace) or repeated public intoxication.

SECTION 2.50.06 EXCLUSION PROCESS

1. Tribal Court Judgment
 - a) The Tribal Court may find any NINMI in violation of this Ordinance pursuant to the Grounds For Exclusion listed in Section 2.50.05 and issue an Exclusion Order.

2. Exclusion Petition

- a. The Tribal Chief of Police or Tribal Council Chairperson may file a Petition for Exclusion (herein “Petitioner”). The Petition shall:
 - i. Identify the name of the NINMI and if appropriate their title, and contact information;
 - ii. The specific ground upon which they are seeking to have the NINMI excluded under;
 - iii. Specific facts, dates, witnesses, documents and summary to the event(s) giving rise the request for exclusion; and
 - iv. The NINMI’s name and address or last known location.
- b. The Petition shall be filed with the Bear River Band Tribal Court.
- c. Petitions filed against a NINMI that have resided in a Tribal member household for a period of more than thirty (30) days or are domiciled on the Bear River Band Rancheria may be subject to the Transfer of Jurisdiction to the Tribal Council. The Tribal Court Clerk may serve a Notice of Transfer of Jurisdiction to the Tribal Council or its designee. If the Petition is transferred to the Tribal Council, the Petition will proceed before the Council under the procedures and process set forth under this Ordinance.

3. Services of Process

- a. The Petitioner will be responsible for serving the NINMI (“Respondent”) with Petition. Service may be accomplished:
 - i. By personal service;
 - ii. Personal delivery at their place of employment or business;
 - iii. Personal delivery on a person over the age of eighteen(18) at the person’s residence; or
 - iv. By certified mail return receipt requested.
- b. If service under one of the methods listed above is unsuccessful after due diligence, the Petitioner may post the particular Notice at the residency of the Respondent and publish the Notice in the tribal, local or both newsletter or newspaper.
- c. Once the Petition has been served, the serving officer, person or official shall file a Proof of Service with the Court. The Proof of Service shall state the time, date and manner the Respondent was served and the name of the document served.

4. Notice of Exclusion Hearing

- a. Once the Petition has been served on the Respondent and the Proof of Service has been filed with the Tribal Court, the Court shall determine the time, date and location of the Exclusion Hearing. The Hearing will be set no later than five (5) days from the date that the Respondent was served with the Petition.
- b. A Notice of Exclusion Hearing will be served on both the Petitioner and Respondent in the manner set forth in subsection 2. above. The Notice will provide the parties with the time, date and location of the hearing. The Notice will inform the parties that they may be represented by an advocate or attorney at their own expense.

5. Exclusion Hearing Procedure

- a. The Tribal Court Judge shall conduct the Exclusion Hearing. The proceeding will be recorded. The Petitioner or their representative shall present the Petition to the Court and the evidence, both documentary and testimony. Any witness called by the Petitioner may, after providing their testimony, be cross-examined by the Respondent or their representative. Following the presentation by the Petitioner, the Respondent may present their case on why they should not be excluded and produce evidence in support of their case. Both parties may make a final closing statement before the Judge deliberates.
 - b. The Court may conduct the hearing informally and suspend strict application of the rules of evidence except that the Tribal Court's decision may not be based solely on hearsay evidence.
6. Decision

The Court may make and announce its decision at the close of the case or take the matter under advisement. If taken under advisement, the Court must issue its decision no later than three (3) days after the hearing. The Tribal Court's written decision shall be served on the parties and the decision to the Tribal Court shall be final.

SECTION 2.50.07 EXCLUSION PURSUANT TO CODE VIOLATIONS

1. Peace and Security Ordinance Violations as Grounds for Exclusion:
 - a. If a Respondent, in a case involving a violation of the Tribe's Peace and Security Ordinance, has been found after a Court Hearing to have committed a violation of the Ordinance, and that violation meets grounds for exclusion contained in Section 2.50.05 above, the Court may order that individuals be excluded permanently or for a specific duration without an additional hearing.
2. After paying all fines relating to the underlying citation case, an excluded individual may request a hearing to be allowed back on Tribal lands.
3. Hearings involving requests for re-admittance to Tribal lands shall follow the rules set above in Section 2.50.06.

SECTION 2.50.08 EMERGENCY EXCLUSION ORDERS

1. Temporary Emergency Exclusion Order
 - a. A Petitioner may file for an Emergency Exclusion Order from the Court, if the Petitioner believes that the Respondent poses an imminent and substantial threat to the safety of Petitioner, tribal members and/or property of the Tribe. The Tribal Court may issue an immediate Temporary Exclusion Order against a Respondent excluding them from Tribal Lands.
 - b. The party seeking the Temporary Emergency Exclusion Order shall present all evidence and arguments to the Tribal Court in support of the need of immediate Order. The Tribal Court shall determine whether the evidence as presented establishes the need for the immediate Order. If granted, the Order shall set forth the exclusion of the person from all or part of the Tribal land and the time and date the Order will expire.

- c. The issuance of a Temporary Exclusion Order issued by the Tribal Court shall be final and not appealable.
- d. The issuance of a Temporary Exclusion Order issued shall remain in place until a Hearing can be held on the matter in the Tribal Court. An Exclusion Hearing shall be held no later than fourteen (14) days after the issuance of the Temporary Exclusion.
- e. The Order shall be submitted to the Bear River Tribal Police Department for immediate enforcement.

SECTION 2.50.09 ENFORCEMENT OF EXCLUSION ORDERS

1. All Exclusion Orders shall be promptly submitted to the Bear River Band Police Department for immediate enforcement and removal. Exclusion Orders will be archived in the Bear River Band Police Department's Computer Aided Dispatch (CAD) system.
2. If any NINMI is ordered excluded from any part of the Bear River Band of the Rohnerville Rancheria and does not promptly obey the Order, the Tribal Court shall direct Law Enforcement to use reasonable force in effecting the Exclusion Order.
3. The person or entity who obtained the Exclusion Order may file a Request for Enforcement with the Tribal Court. If the Court determines that the excluded person is in violation of an Exclusion Order pursuant to this Ordinance they shall be subject to trespassing violations per incident according to the Tribe's Peace and Security Ordinance Section 3.25.07 Subsection (2.).
4. The Tribal Council may file an application for recognition and enforcement of the Exclusion Order with the Superior Court of the State of California for further enforcement under Penal Code § 166(a)(4), or take such other actions to enforce the order as it deems appropriate.

SECTION 2.50.10 APPLICATION FOR REVOCATION

Any NINMI to whom an order has been issued under this Ordinance may apply to the Tribal Court in writing for revocation or amendment of said order. Applications for revocation or amendment will only be considered after a period of one year has expired from the date of issuance, unless otherwise stated in the court order, and provided all fines have been paid in full. Proof of rehabilitation and or transformation assuring the individual no longer poses a threat to the safety and welfare of the Tribal community must be submitted along with application. The Tribal Court Judge may place any conditions deemed necessary on the individual and require that the individual follow such conditions as a stipulation to revocation.

SECTION 2.50.11 NO WAIVER OF SOVEREIGN IMMUNITY

Nothing herein shall be deemed to be a waiver of the sovereign immunity of the Tribal Court, Tribal Council, or the Bear River Band of the Rohnerville Rancheria. The sovereign immunity of the Tribe shall extend to its Tribal Law Enforcement Officer(s) or at all times while carrying out the enforcement of this Ordinance.

SECTION 2.50.12 SEVERABILITY

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

SECTION 2.50.13 AMENDMENTS

The Tribal Council of the Bear River Band of the Rohnerville Rancheria has the authority to make amendments to this Ordinance. The Bear River Band Tribal Court may make amendment recommendations for Tribal Council consideration.

SECTION 2.50.14 EFFECTIVE DATE

The Ordinance will become effective upon adoption by the Tribal Council.

C*E*R*T*I*F*I*C*A*T*I*O*N


This is to certify that the Bear River Band of the Rohnerville Rancheria Tribal Council duly assembled in Loleta, CA and adopted the foregoing document on September 17, 2024 by a vote of 6 For, 0 Against, 0 Abstentions and 1 Absent.



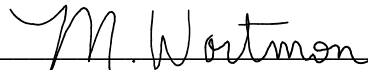
Josefina Frank, Chairperson



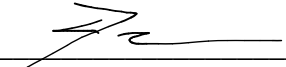
Aileen Meyer, Vice-Chairperson




Dakota McGinnis, Jr., Secretary




Maggie Wortmon, Treasurer



John D. McGinnis, Member-at-Large 1



Edward Bowie, Member-at-Large 2



Derek Bowman, Member at Large 3