

MORONGO BAND OF MISSION INDIANS

ORDINANCE #37

ORDINANCE GOVERNING MISBEHAVIOR ON THE MORONGO INDIAN RESERVATION AND AT MORONGO TRIBAL ENTERPRISES

Approved September 17, 2015

MORONGO BAND OF MISSION INDIANS

ORDINANCE NO. ____

ORDINANCE GOVERNING MISBEHAVIOR ON THE
MORONGO INDIAN RESERVATION AND
AT MORONGO TRIBAL ENTERPRISES

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I. **FINDINGS**

- A. The Morongo Casino Resort & Spa ("MCRS"), the Morongo Travel Center, Canyon Lanes, the Morongo Golf Club at Tukwet Canyon, and the other enterprises (collectively, "Enterprises") owned by the Morongo Band of Mission Indians ("Tribe") are the Tribe's primary sources of revenue.
1. The vast majority of patrons at the Enterprises are not Tribal Members, and the vast majority of the revenues and profits generated by the Enterprises are derived from patrons who are not Tribal Members.
 2. The financial success of each of the Enterprises depends on customer satisfaction and patrons' enjoyment of the experience they have at that Enterprise.
 - (a) The degree to which patrons of an Enterprise are satisfied is directly affected by the quality of the customer service provided by the employees of that Enterprise, and the quality of customer service provided by employees at an Enterprise is directly affected by the work environment at that Enterprise. When the work environment is negative, then customer service suffers.
 3. The degree to which patrons of an Enterprise enjoy the experience they have at that Enterprise, and thus the likelihood that they will continue to patronize that Enterprise in the future, is negatively affected by any disturbance or unpleasant incident that occurs during the time those patrons are at the Enterprise.
 4. The managers of each of the Enterprises understand that they have the authority to sanction and/or ban, either temporarily or permanently, any patron who is not a Tribal Member and who engages in conduct of the type prohibited by Section IV of this Ordinance. However, managers are hesitant to take any action against a Tribal Member who engages in similar conduct because of fear of retaliation. As a result, while the managers of the Enterprises have been successful in limiting misbehavior at the Enterprises by patrons who are not Tribal Members, they have not been successful in limiting the misbehavior of Tribal Members.
 5. Because Enterprise managers have been unsuccessful in limiting the misbehavior of Tribal Members, each of the Enterprises has suffered, to some degree, a reduction in the amount of revenue generated by that Enterprise. This has caused a reduction in the amount of money available for distribution to Tribal Members and/or the amount of money available to fund Tribal programs.
 6. Because it has reduced the amount of money available for distribution or to fund Tribal programs, the misbehavior of Tribal Members at Enterprises has caused the Tribe as a whole, and each of its adult Tribal Members as individuals, to suffer a loss of income.
 7. The Tribe has concluded that the best way to protect the revenue stream from the Enterprises is by adopting an ordinance prohibiting misbehavior by Tribal Members at the Enterprises and instituting a system of sanctions that can be applied to Tribal Members who misbehave at one of the Enterprises.
- B. The Common Area is meant to be used and enjoyed equally by all Tribal Members and their guests. In addition, some portions of the Common Area, such as the health clinic

and the Malki Museum, are meant to be used and enjoyed not only by Tribal Members and their non-member guests, but also by members of the public.

1. There currently is no enforceable mechanism to prevent Tribal Members from acting in a manner that interferes with or prevents others from using and enjoying a portion of the Common Area.
2. With the exception of the Nuisance Ordinance, there currently is no mechanism to prevent non-members from acting in a manner that interferes with or prevents others from using and enjoying a portion of the Common Area.

II. **PURPOSE**

A. The purposes of this Ordinance are:

1. To protect the revenues that the Tribe and adult Tribal Members receive from the profits generated by the various Enterprises; and
2. To ensure that all individuals who use any portion of the Common Area of the Reservation act in an appropriate manner when using that area.

III. **DEFINITIONS**

A. The term “Alleged Violator” or “Suspect” means a person suspected or accused of having committed a Violation.

B. The term “Common Area” shall mean all of the following:

1. The area where the ball fields and rodeo grounds are located, including the related parking area.
2. Any campus of the Morongo School, including any parking area or play area associated with that campus.
3. Any building at which Tribal Administration employees work, and its related parking area.
4. Any building used for Tribal programs, such as the Recreation Center/Community Hall and the Tribal Hall, and its related parking area.
5. Any church or cemetery located on the Reservation, and its related parking area.
6. Any health clinic and its related parking area.
7. The Malki Museum and its related parking area.
8. Potrero Canyon Park and its related parking area.
9. Potrero Canyon, Millard Canyon, Hathaway Canyon, and all other areas of the Reservation outside of the residential portion of the Reservation.

C. The term “Enterprise” means any business owned and/or operated by the Tribe, regardless of where that business is located, and any business owned or operated by any third party that is located on the Reservation pursuant to a lease or other contract of any kind between the Tribe and the owner or operator of that business.

- D. The term "Incident Report" means a report prepared by an employee of the Morongo Reservation Patrol Department or MCRS Security Department.
- E. The term "MCRS" means the Morongo Casino Resort Spa.
- F. The term "MRP" means the Morongo Reservation Patrol Department.
- G. The term "non-member" means any person who is not an enrolled member of the Tribe.
- H. The term "Reservation" means all lands within the exterior boundaries of the Morongo Indian Reservation and under the jurisdiction of the Tribe, including but not limited to all tribal trust land and allotted land within the exterior boundaries of the Morongo Indian Reservation.
- I. The term "Responsible Tribal Member" means a Tribal Member who invited or enabled a non-member who committed a Violation at a Common Area to enter the Reservation.
- J. The term "Suspected Violation" means conduct that may constitute a Violation but that has not yet been held by the Morongo Tribal Court to have constituted a Violation.
- K. The term "Tribal Member" means a person who is an enrolled member of the Tribe.
- L. The term "Tribe" means the Morongo Band of Mission Indians.
- M. The term "Violation" means conduct prohibited by Section IV or Section V of this Ordinance.
- N. The term "Violator" means a person who has been found by the Morongo Tribal Court to have committed a Violation.

IV. PROHIBITED CONDUCT AT TRIBAL ENTERPRISES

- A. The following conduct is prohibited at all of the Enterprises:
 - 1. Being drunk, obviously under the influence of a controlled substance, or disorderly.
 - (a) This includes causing a disturbance or acting in a manner that negatively impacts another patron's customer experience, regardless of whether that other patron is a Tribal Member or is a member of the public.
 - 2. Verbally threatening, harassing or abusing a patron or employee.
 - (a) This includes not only threats of physical harm or threats to damage property, but also threats relating to an employee's job.
 - 3. Physically interfering with any other patron.
 - 4. Interfering with or otherwise hindering an employee's ability to perform his/her job.
 - 5. Failing to comply with a reasonable request from an employee of the Enterprise, an MRP or MCRS Security officer, or a law enforcement officer.
 - 6. Willfully destroying any property without causing any harm to any other person.

7. Threatening a patron or employee with a weapon or other object that could cause serious bodily injury without actually causing any bodily harm to anyone.
 8. Intentionally causing bodily harm to another person, or unintentionally causing bodily harm to another person if that other person was a bystander and not a participant, in an altercation in which the Suspect participated.
- B. A Tribal Member who commits a Violation at an Enterprise shall be dealt with pursuant to this Ordinance.
1. If a Tribal Member is arrested as a result of committing a Violation, any civil penalty imposed on that Tribal Member pursuant to this Ordinance shall be in addition to, and not in lieu of, any criminal penalty imposed on that Tribal Member as a result of the act(s) constituting a Violation.
- C. A non-member who commits a Violation at an Enterprise shall be dealt with directly by the manager on duty of that Enterprise using his/her inherent authority as manager to summon assistance of law enforcement, ban such an individual from the Enterprise and take action to require such an individual to pay restitution for any property damage that individual may have caused.

V. **PROHIBITED CONDUCT AT RESERVATION COMMON AREAS**

- A. The following conduct is prohibited within any of the Common Areas of the Reservation, and any individual found to have engaged in such conduct within one of the Common Areas of the Reservation shall be deemed to have violated this Ordinance.
1. Being drunk, obviously under the influence of a controlled substance, or disorderly.
 - (a) This includes causing a disturbance at a Common Area or acting in a manner that negatively impacts the ability of others to use and/or enjoy that Common Area.
 2. Verbally threatening to harm another person or any property belonging to another person or the Tribe.
 - (a) If the person threatened is an employee of the Tribe, this includes threats relating to that employee's job.
 3. Willfully interfering with another person's authorized use and/or enjoyment of a Common Area of the Reservation.
 4. Willfully interfering with or otherwise hindering an employee's ability to perform his/her job.
 5. Failing to comply with a reasonable request from a Tribal employee, elected Tribal official or law enforcement officer.
 6. Willfully destroying any property without causing any harm to any other person.
 7. Threatening another person with a weapon or other object that could cause serious bodily injury without actually causing any bodily harm to anyone.

8. Intentionally causing bodily harm to another person, or unintentionally causing bodily harm to another person if that other person was a bystander and not a participant, in an altercation in which the Suspect participated.

VI. **INVESTIGATION: INCIDENT REPORT**

- A. Whenever any person is observed at an Enterprise or at a Common Area engaging in conduct that may constitute a Violation, the conduct should be reported immediately as follows:
 1. For conduct that occurs at MCRS, the Suspected Violation should be reported to the manager on duty at the time of the incident and/or to MCRS Security.
 2. For conduct that occurs at an Enterprise other than MCRS, the Suspected Violation should be reported to the manager on duty at the time of the incident and/or to MRP.
 3. For conduct that occurs at a Common Area, the Suspected Violation should be reported to the Tribal Administration employee with responsibility for that area and/or to MRP.
 4. Whenever a Suspected Violation is reported to a manager or staff member, he/she should notify MCRS Security or MRP, whichever is appropriate.
 5. When reporting a Suspected Violation to MCRS Security, it may be reported either to the MCRS Security office or to any Security Officer on duty. Similarly, when a Suspected Violation is reported to MRP, it may be reported either to the MRP office or to any MRP Officer on duty. When MCRS Security receives a report of a Suspected Violation, MCRS Security shall notify the Surveillance Department of the Morongo Tribal Gaming Agency and request preservation of all video recordings of the Suspected Violation.
- B. Upon receipt of a report of a Suspected Violation, depending on where the incident occurred, an MCRS Security Officer or MRP Officer shall be assigned primary responsibility for preparing an Incident Report.
 1. To the extent practicable, the Incident Report should include information identifying each person involved in the incident or who witnessed the incident, and exhibits such as photographs and/or surveillance camera video (if available and if relevant), written witness statements or reports of participant/witness interviews, and any arrest record or report prepared by law enforcement.
 - (a) Each witness statement should be dated and signed by the witness. A report of an interview should be signed by the person who conducted the interview and the person who was interviewed. If the person who was interviewed refuses to sign or is unavailable to sign (e.g., where the interview is conducted by telephone), an explanation of why it has not been signed should be included on the report.
 2. The Incident Report should be as unbiased as possible. Therefore, all reasonable steps should be taken to include not only information tending to show that a Violation has occurred, but also any exculpatory evidence (i.e., information tending to show that a Violation did not occur, or that the conduct at issue was justified or otherwise excusable in some way).

- (a) With respect to any Suspected Violation of Section V.A by a non-member, the Incident Report should identify the Responsible Tribal Member, if possible.
- 3. The Incident Report should be completed within five (5) business days after MCRS Security or MRP is notified of the Suspected Violation.
 - (a) If for any reason (such as unavailability of a key witness) an Incident Report cannot be completed within five (5) business days after notification of the Suspected Violation, the Director of MCRS Security or Chief of MRP, as appropriate, shall immediately notify the person designated to receive the completed Incident report of the delay and the reason(s) for the delay.
- C. When the Incident Report has been prepared, the original (including exhibits) shall be provided to (1) the Enterprise Administrator, (2) the head of the Morongo Gaming Agency ("MGA") with a copy to the Chief Operating Officer or General Manager of MCRS, or (3) the Chief Administrative Officer ("CAO") of the Tribe, depending on the location of the incident.
 - 1. A copy of the Incident Report and exhibits also shall be provided to the Morongo Tribal Council.
- D. Notwithstanding the requirement to prepare a full Incident Report before any formal action is taken pursuant to this Ordinance, if an incident occurs at MCRS or another Enterprise the manager on duty shall have the authority to require the immediate departure (and, if necessary, removal) from that Enterprise of any Tribal Member reported to have engaged in conduct of a prohibited type described in Section IV above.
 - 1. If the manager on duty requires a Tribal Member to depart immediately from an Enterprise, the Tribal Member shall also be required to stay away from that Enterprise until the investigation has been completed and the Incident Report has been prepared and provided to the appropriate individual pursuant to Section VI.C above.

VII. NOTICE OF VIOLATION; REFERRAL TO MORONGO TRIBAL COURT

- A. If, after reviewing the Incident Report and exhibits, the Enterprise Administrator, head of the MGA or CAO, whichever is appropriate, concludes that the incident warrants further proceedings pursuant to this Ordinance, then he/she shall issue a Notice of Violation on the appropriate form approved by the Tribal Council.
 - 1. In order to provide the Alleged Violator with adequate notice of what he/she is being charged with, the Notice of Violation must specify which subsection(s) of Section IV or Section V above that the Alleged Violator is alleged to have violated.
- B. When a Notice of Violation is issued, the original shall be filed with the Morongo Tribal Court, along with a copy of the Incident Report (including exhibits).
- C. In addition to filing the Notice of Violation with the Morongo Tribal Court, the Enterprise Administrator, head of the MGA or CAO, whichever is appropriate, shall cause a copy of the Notice of Violation to be served on the Alleged Violator and the Responsible Tribal Member, if any.
 - 1. Service of the Notice of Violation does not have to be made in person, but can be made in other ways; provided, however, that whatever method of service is used must include a means to prove that the notice was in fact delivered either directly

to the Alleged Violator or the Alleged Violator's address of record. If the Incident Report identifies a Responsible Tribal Member, the Notice of Violation also must be served either directly to the Responsible Tribal Member or to the Responsible Tribal Member's address of record.

- (a) The address of record for a Tribal Member shall be deemed to be his/her address on file with the Morongo Finance Department.
 - (b) The address of record for a non-member shall be deemed to be his/her address as listed on an official form of identification, such as a driver's license, or the address provided by that individual to MCRS Security, MRP or a law enforcement officer at the time of the incident. If no such information was obtained from the Alleged Violator, MRP or MCRS Security, as appropriate, shall make reasonable efforts to locate an address of record. If such efforts are unsuccessful, a statement describing such efforts shall be filed with the Morongo Tribal Court, which may then order publication of notice in a newspaper of general circulation.
2. Proof of delivery of the Notice of Violation shall be filed with the Morongo Tribal Court as soon as possible.

VIII. SCHEDULING OF A HEARING

- A. Upon receipt of a Notice of Violation, the Morongo Tribal Court shall initiate an enforcement proceeding pursuant to the Morongo Tribal Court Rules of Court then in effect ("Morongo Rules of Court"). Upon receipt of proof of delivery of the Notice of Violation, the Morongo Tribal Court shall schedule an evidentiary hearing to take place no sooner than ten (10) business days and no later than thirty (30) business days after the Court sends notice of the hearing to the Alleged Violator, any Responsible Tribal Member, and to the Enterprise Administrator, head of the MGA or CAO, as appropriate.
 1. Notice of the date, time and place of the hearing may be provided by any means deemed by the Morongo Tribal Court to be practical, including email, fax, certified mail, or other form of delivery that provides a means to determine whether the notice has been delivered to the intended recipient.
 2. In addition to providing notice of the date, time and place of hearing, the notice must inform all parties that the hearing will be conducted pursuant to the Morongo Rules of Court, and that each party will be afforded the opportunity to present testimony (including the testimony of any third party witness(es)) as well as other evidence (reports, video, photographs, etc.) in support of that party's position.
- B. Notwithstanding the scheduling of a hearing, the Morongo Tribal Court Judge ("Judge") shall conduct a review of each Notice of Violation and Incident Report prior any hearing to determine whether the Incident Report establishes probable cause to believe that the Alleged Violator committed a Violation.
 1. If the Judge determines prior to a scheduled hearing that the Incident Report does not establish probable cause to believe that the Alleged Violator committed a Violation, the Judge shall dismiss the Notice of Violation and the Clerk of the Court shall notify the parties that the hearing has been canceled.

IX. CONDUCT OF HEARING; DECISION OF THE COURT

- A. The Judge will conduct the hearing in a manner consistent with the Morongo Rules of Court then in effect.
- B. After the hearing has been completed in accordance with the Morongo Rules of Court, the Judge shall decide, based on the Incident Report, the exhibits to the Incident Report, and the other evidence (if any) admitted by the Court during the hearing, whether the Alleged Violator has committed any Violation(s).
 - 1. If the Judge decides that the Alleged Violator has not committed a Violation, the Court shall dismiss the Notice of Violation.
 - 2. If the Judge decides that the Alleged Violator committed a Violation, the Judge shall impose sanctions on the Violator and any Responsible Tribal Member in accordance with Section X below.

X. IMPOSITION OF CIVIL SANCTIONS AND ENTRY OF JUDGMENT

- A. The available sanctions that may be imposed on a Tribal Member Violator are as follows:
 - 1. For a violation of Section IV.A.1-6 or Section V.A.1-6, the available sanctions are as follows:
 - (a) For a first offense, a fine of not less than \$500 and not more than \$1,500, and a prohibition on entering the Enterprise or portion of the Common Area where the violation occurred for a period of not less than three (3) months and not more than six (6) months.
 - (b) For a second offense, a fine of not less than \$2,000 and not more than \$4,000, and a prohibition on entering the Enterprise or portion of the Common Area where the violation occurred for a period of not less than nine (9) months and not more than eighteen (18) months. The Court also may prohibit the Tribal Member from entering any other specified Enterprise(s) or Common Area portion(s) for a period of not less than three (3) months and not more than six (6) months.
 - (c) For a third or subsequent offense, a fine of not less than \$3,000 and not more than \$6,000, a prohibition on entering the Enterprise or portion of the Common Area where the violation occurred for a period of not less than five (5) years and not more than ten (10) years, and a prohibition from entering any other Enterprise or any other specified portion(s) of the Common Area for a period of not less than three (3) years and not more than ten (10) years.
 - (d) In addition to any other sanction ordered by the Court, if the Tribal Member damaged or destroyed any property the Court also shall order that the Tribal Member reimburse the Enterprise where the Violation occurred, or the Tribe if the Violation occurred at a portion of the Common Area, for the costs of repair or replacement of any property damaged or destroyed by the Tribal Member.
 - 2. For a violation of Section IV.A.7 or Section V.A.7, the available sanctions are as follows:

- (a) For a first offense, a fine of not less than \$2,000 and not more than \$4,000, a prohibition on entering the Enterprise or portion of the Common Area where the violation occurred for a period of not less than one (1) year and not more than five (5) years, and a prohibition on entering any other Enterprise or specified portion(s) of the Common Area for a period of not less than one (1) year and not more than three (3) years.
 - (b) For a second offense, or for a first offense of Section IV.A.7 or Section V.A.7 after previously having been found by the Court to have violated any of Section IV.A.1-6 or V.A.1-6 in a prior proceeding before the Court, a fine of not less than \$4,000 and not more than \$8,000, a prohibition on entering the Enterprise or portion of the Common Area where the violation occurred for a period of not less than four (4) years and not more than ten (10) years, and a prohibition on entering any other Enterprise or specified portion(s) of the Common Area for a period of not less than three (3) years and not more than six (6) years.
 - (c) For a third offense, or a second offense after also having been found by the Court to have violated any of Section IV.A.1-6 or Section V.A.1-6 in a separate proceeding, or for a first offense after twice having been found to have violated either any of Section IV.A.1-6 or any of Section V.A.1-6 in separate proceedings, a fine of not less than \$8,000 and not more than \$15,000 and a prohibition from entering any Enterprise for a period of not less than ten (10) years and not more than twenty (20) years.
- 3. For a violation of Section IV.A.8 or V.A.8, the available sanctions are as follows:
 - (a) For a first offense, a fine of not less than \$5,000 and not more than \$10,000, and a prohibition on entering any Enterprise or specified portion(s) of the Common Area for a period of not less than one (1) year and not more than three (3) years.
 - (i) Notwithstanding the foregoing limitations, if the Tribal Member's conduct in violation of this Ordinance caused a serious injury to another person, the Court may exercise its discretion, depending on the nature and seriousness of the injury, to levy a fine up to \$20,000 and to prohibit the Tribal Member from entering any Enterprise or specified portion(s) of the Common Area for a period up to seven (7) years.
 - (b) For a second offense, or a first offense after also having been found by the Court to have violated any of Section IV.A.1-7 or V.A.1-7 in a prior proceeding before the Court, a fine of not less than \$10,000 and not more than \$20,000, and a prohibition on entering any Enterprise or specified portion(s) of the Common Area for a period of not less than five (5) years and not more than fifteen (15) years.
 - (i) Notwithstanding the foregoing limitations, if the current offense in violation of Section IV.A.8 or Section V.A.8 caused a serious injury to another person, the Court may exercise its discretion, depending on the nature and seriousness of the injury, to levy a fine up to \$50,000 and to prohibit the Tribal Member from entering any Enterprise or specified portion(s) of the Common Area for a period up to twenty-five (25) years.

B. The available sanctions that may be imposed on a non-member are as follows:

1. For a violation of Section IV.A, a non-member shall be dealt with directly by the manager on duty of that Enterprise using his/her inherent authority as manager to ban such an individual from the Enterprise and to require such an individual to pay restitution for any property damage that individual may have caused.
 - (a) To the extent that a non-member causes any property damage at an Enterprise, to the fullest extent allowed by federal law that non-member shall be subject to proceedings in the Morongo Tribal Court for the purpose of establishing the amount of restitution necessary to compensate the Tribe for that property damage and for entry of judgment against that non-member for the amount of restitution deemed by the Morongo Tribal Court to be appropriate under the circumstances.
2. For a violation of Section V.A.1-6, the available sanctions are as follows:
 - (a) For a first offense, a fine of not less than \$500 and not more than \$1,500, and a prohibition on entering the Reservation for a period of not less than six (6) months.
 - (b) For a second offense, a fine of not less than \$2,000 and not more than \$4,000, and a prohibition on entering the Reservation for a period of not less than eighteen (18) months.
 - (c) For a third offense, a fine of not less than \$3,000 and not more than \$6,000, and a prohibition on entering the Reservation for a period of not less than ten (10) years.
3. For a violation of Section V.A.7, the available sanctions are as follows:
 - (a) For a first offense, a fine of not less than \$2,000 and not more than \$4,000, and a prohibition on entering the Reservation for a period of not less than five (5) years.
 - (b) For a second offense, or for a first offense of Section V.A.7 after previously having been found by the Court to have violated any of Section V.A.1-6 in a prior proceeding before the Court, a fine of not less than \$4,000 and not more than \$8,000, and a prohibition on entering the Reservation for a period of not less than ten (10) years.
 - (c) For a third offense, or a second offense after also having been found by the Court to have violated V.A.1-6 in a separate proceeding, or for a first offense after twice having been found to have violated either any of Section V.A.1-6 in separate proceedings, a fine of not less than \$8,000 and not more than \$15,000 and a prohibition on entering the Reservation for a period of not less than twenty (20) years.
4. For a violation of Section V.A.8, the available sanctions are as follows:
 - (a) For a first offense, a fine of not less than \$5,000 and not more than \$10,000, and a prohibition on entering the Reservation for a period of not less than ten (10) years.
 - (i) Notwithstanding the foregoing limitations, if the non-member Violator's conduct in violation of this Ordinance caused a serious injury to another

person, the Court may exercise its discretion, depending on the nature and seriousness of the injury, to levy a fine up to \$20,000.

- (b) For a second offense, or a first offense after also having been found by the Court to have violated any of Section V.A.1-7 in a prior proceeding before the Court, a fine of not less than \$10,000 and not more than \$20,000, and a prohibition on entering the Reservation for a period of not less than twenty (20) years.
 - (i) Notwithstanding the foregoing limitations, if the current offense in violation of Section IV.A.8 or Section V.A.8 caused a serious injury to another person, the Court may exercise its discretion, depending on the nature and seriousness of the injury, to levy a fine up to \$50,000.
- 5. The enumeration of minimum time periods for prohibiting a non-member Violator from entering the Reservation set forth in Section X.B.1-4 above shall not preclude the Court from entering an order permanently prohibiting a non-member Violator from entering the Reservation as a result of any violation of this Ordinance.
- 6. In addition to any specified time period during which a non-member Violator is prohibited from entering the Reservation, the Court also shall order that a non-member Violator may not enter the Reservation for such additional time period during which that Violator failed to pay in full any fine levied by the Court.
- C. The available sanctions that may be imposed on a Responsible Tribal Member who is not an active participant in a Violation shall be one-half ($\frac{1}{2}$) the sanction(s) that would have been applicable to that Tribal Member pursuant to X.A above if he/she were the actual Violator rather than Responsible Tribal Member.
- D. Notwithstanding the specific sanctions available pursuant to Section X.A-C above:
 - 1. If the Judge concludes that there are extenuating or mitigating circumstances, the Judge may decide to impose sanctions that are not less than one-half ($\frac{1}{2}$) the designated minimum sanction(s) listed above.
 - 2. If the Judge finds that there are aggravating circumstances or that the Violation resulted in significant negative publicity or otherwise caused significant damage to the reputation of the Tribe or any of the Enterprises, the Judge may decide to impose sanctions that are not more than two (2) times the designated maximum sanction(s) listed above.
- E. The Judge shall determine what sanctions are appropriate based on the criteria set forth above and a consideration of the circumstances, including the nature of the Violation, whether the Violator committed more than one Violation during the incident, and the extent of any negative publicity or damage to the reputation of the Tribe or the Enterprise where the Violation occurred.
- F. Upon determining the appropriate sanction(s) to impose, the Court shall issue a written Judgment identifying which subsection(s) of Section IV.A or V.A the Violator violated and the sanctions imposed pursuant to this Ordinance. If the sanctions have been adjusted by the Judge pursuant to Section X.C above, then the Judgment shall include a summary of the factors causing the Judge to conclude that adjustment was warranted under the circumstances.

XI. **FINALITY; NO APPEAL**

- A. The Court's decision regarding whether a Violation has been committed and the Court's imposition of a penalty in accordance with this Ordinance shall be final when issued and may not be appealed.
- B. If a Tribal Member fails to pay the monetary sanctions imposed by the Tribal Court within thirty (30) days after entry of the Tribal Court's judgment, the amount of the sanctions shall be offset against the Tribal Member's distributions of tribal revenues until paid in full, without interest.
- C. If a non-member fails to pay the monetary sanctions imposed by the Tribal Court within thirty (30) days after entry of the Tribal Court's judgment, the amount of the sanctions shall be offset against any money that the Tribe may otherwise owe to the non-member until paid in full, without interest. In addition, to the extent allowed by law, the Tribe may seek to enforce the judgment through the state court system.

CERTIFICATION

This is to certify that the foregoing Ordinance was adopted on September 17, 2015, at a duly held election of the General Membership of the Morongo Band of Mission Indians, by a vote of 175 in favor, 60 opposed and 0 abstaining.

Dated: September 18, 2015

/s/ Karen Hogan
Executive Recording Secretary