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ORDINANCE OF THE GOVERNING BODY
OF THE
SAUK-SUIATTLE INDIAN TRIBE

Ordinance No. 10/20/09 **NUISANCE ORDINANCE**

THEREFORE BE IT ENACTED BY THE TRIBAL COUNCIL OF THE SAUK-SUIATTLE INDIAN TRIBE, AS FOLLOWS:

WHEREAS, The Sauk-Suiattle Tribal Council is the duly constituted governing body of the Sauk-Suiattle Indian Tribe, by authority of the Constitution and Bylaws, approved by the Secretary of the Interior on September 17, 1975 and in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat.984); and

WHEREAS, the Sauk-Suiattle Indian Tribal Council is the duly elected governing body of the Sauk-Suiattle Indian Tribe; and

WHEREAS, in accordance with the Tribal Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, it shall be the duty of Tribal Council to protect and preserve the people of the Sauk-Suiattle Indian Tribe as provided in Article II, Section 1(a) including the promulgation of laws and ordinances pursuant to Article VII, Section 1(P); and

WHEREAS, in order to maintain and provide the peace, health and general welfare of the Sauk-Suiattle members and community, the Tribal Council hereby established rules to prevent activity that threatens the public peace, health, safety or sanitary condition of the Sauk-Suiattle Reservation; and

WHEREAS, the Council has determined that amendment of the ordinance to clarify the application of the Ordinance to all Tribal Lands and to simplify the scheduling of a Tribal Court hearing on an Abatement Order is needed; now

THEREFORE, BE IT ENACTED THAT, the Sauk-Suiattle Tribal Council hereby asserts its right as a sovereign power to regulate the activities of all individuals within the jurisdiction of the Sauk-Suiattle Indian Tribe; and

BE IT FINALLY ENACTED THAT, this Ordinance is created to preserve the peace and tranquility of the Sauk-Suiattle Tribal Community.

LEGISLATIVE HISTORY

Enacted:

- Nuisance Ordinance No. 7/3/07, (7/13/07).

As Amended:

- Nuisance Ordinance No. 10/20/09, (10/9/09).

1.1.000 Purpose. This Ordinance is created to preserve the peace and tranquility of the Sauk-Suiattle Tribal Community.

1.2.000 Nuisance Defined. A nuisance shall mean any substance, matter, emission, sound or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety or sanitary condition of the Sauk-Suiattle Reservation or which is offensive or has a blighting influence on the community and which is found upon, in, being discharged or flowing from any street, highway, railroad right-of-way, vehicle, body of water, excavation, building, lot, grounds or other property on tribal lands. Nuisances shall include, but not be limited to, the following:

1.2.010 Abandoned Vehicle. Any vehicle that is parked for a period longer than thirty (30) days with either no tags or expired tags more than thirty (30) days overdue.

1.2.020 Dangerous structure. A structure which is potentially hazardous to persons or property including, but not limited to:

- a. A structure that is in danger of partial or complete collapse; or
- b. A structure with any exterior parts that are loose or in danger of falling; or
- c. A structure with any parts such as floors, porches, railings, stairs, ramps, balconies or roofs that are accessible and that are either collapsed, in danger of collapsing, or unable to support the weight of normally imposed loads.

1.2.030 Fire Hazards. Any thing or condition on the property that creates a fire hazard or that is a violation of the fire code.

1.2.040 Graffiti. Any initials, marks, symbols, designs, inscriptions or other drawings, scratched, painted, inscribed or otherwise affixed upon any structure without the permission of the owner.

1.2.050 Grass and Weeds. Grass or weeds that have grown upon any property to a height of eight (8) or more inches.

1.2.060 Hazards. Any thing or condition on the property that may contribute to injury of any person present on the property. Hazards shall include, but not be limited to, open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators or trapping devices.

1.2.070 Health Hazards. Any thing or condition on the property that creates a health hazard or that is a violation of any health or sanitation law.

1.2.8080 Insects, Rodents and Pest Harborage. Conditions that are conducive to the presence, harborage or breeding of insects, rodents or other pests.

1.2.090 Loud Music. Using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machines or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section. Cultural music is exempt from the provisions of this definition if such music is played during a powwow or other official cultural gathering.

1.2.100 Noise. Any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, within the limits of the Sauk-Suiattle Reservation.

1.2.110 Refuse, noxious substances, hazardous wastes. Refuse, noxious substances or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried or discharged upon, in, being discharged or flowing from any property, structure or vehicle, except for:

- a. Refuse deposited at places designated and provided for that purpose.
- b. Refuse stored in accordance with this Ordinance or vehicle parts stored in an enclosed structure.
- c. Compost piles established and maintained for gardening purposes.

1.2.120 Uncontrolled Party. Any social gathering that creates a disturbance so as to disrupt the peacefulness of the neighborhood or community due to loud noises and/or fights or other obnoxious behavior.

1.3.000 Other Definitions.

1.3.010 Attractive Nuisance. Any condition located on property that could reasonably be viewed as a source of danger to children because the condition creates an attraction where children may enter into or onto to play.

1.3.020 Tribal Lands. All lands owned either (a) by the Sauk-Suiattle Tribe or (b) by the United States of America in trust for the Sauk-Suiattle Tribe, the Sauk-Suiattle Indians or one or more members of the Sauk-Suiattle Tribe, and subject to the jurisdiction of the Sauk-Suiattle Indian Tribe.

1.3.030 Enforcement Officer. Any officially designated Tribal Police Officer or Department of Natural Resources warden or official.

1.4.000 Violations.

1.4.010. Civil Infraction. Any individual who is responsible for a nuisance as defined in Section 1.2.000 or Section 1.3.000 has committed a civil infraction subject to a fine not to exceed \$1,000.00; and

1.4.020 Abatement Order. Any individual who is responsible for a nuisance as defined in Section 1.2.000 or Section 1.3.000 may be issued an Abatement Order specifying remedial action to be taken; and

1.4.030 Costs. Any individual who is responsible for a nuisance as define in Section 1.2.000 or Section 1.3.000 may be charged the costs incurred by the Tribe in abating the nuisance if:

- (a) The remedial action is not taken nor an appeal filed within the time specified;
or
- (b) There exists an emergency situation as described in Section 1.5.000.

1.5.000 Emergency Abatement.

1.5.010 Procedure. When the enforcement officer determines that a nuisance condition as defined in Section 1.2.000 or Section 1.3.000 exists on the property which constitutes an immediate danger or hazard, which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures of Section 1.6.000, the Tribe may abate the nuisance by the procedure described below:

(a) Order. The Tribe shall order emergency abatement by an administrative order to be signed by the Chief of Tribal Police, or their officially designated representative.

(b) Notice of Abatement. Following an emergency abatement, the Chief shall file such administrative order with the Tribal Court and request that a hearing be scheduled following notice to the Owner, Tenant or other responsible party. The notice shall contain:

1. A description of the nuisance;
2. The action taken;
3. The reasons for immediate action;
4. The costs incurred in abating the nuisance; and
5. The date, time and place of the hearing.

(c) Hearing. At the time of the hearing, the Court shall hear from the enforcement officer or any other party who wishes to be heard regarding their personal knowledge of the nuisance. In the event the Tribe meets its burden of proof by a preponderance of the evidence, the Tribal Court may levy an assessment for costs

incurred by the Tribe in abating the nuisance and institute an order for a fine against the Owner, Tenant or responsible party.

1.6.000 Notice of Violation

1.6.010 When Required. Other than as provided for in Section 1.5.000, the Tribe, through its enforcement authorities, shall give a written notice to anyone who violates this ordinance.

1.6.020 Contents. The Notice of Violation shall:

- (a) Specify the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered), and the section(s) of this ordinance that were violated;
- (b) Set a date for hearing before the Sauk-Suiattle Tribal Court, which shall be no sooner than ten (10) calendar days after service of the notice;
- (c) Specify the amount of the fine which may be paid by the violator to the Court in order to avoid a Court hearing;
- (d) Notify the violator that if the violator does not pay the amount of the fine and does not appear before the Tribal Court on the date set for hearing, the court may declare the defendant to be in default and award any appropriate relief as provided by this ordinance.
- (e) Specify abatement orders, if any. The Abatement Order shall contain the following:
 - 1. A full and complete street address or a real estate description sufficient for identification.
 - 2. A description and location of the nuisance and the remedial action required to abate the nuisance.
 - 3. The abatement deadline, to be determined by the enforcement officer, allowing a reasonable time for the performance of any act required, but no earlier than the Tribal Court hearing date specified in the Notice of Violation.
 - 4. A statement that the order may be contested at the hearing in the Sauk-Suiattle Tribal Court specified in the Notice of Violation.
 - 5. A statement that, if the remedial action is not taken within the time specified, the Tribe will abate the nuisance and charge all costs incurred therein against the Owner, Tenant or person responsible for creation of the nuisance unless the Tribal Court orders otherwise.

1.6.030 Service of Notice. The Notice of Violation shall be served upon the defendant in the following manner:

(a) By delivering a copy personally to the defendant or the defendant's authorized representative, or to any member of the defendant's family residing with the defendant who is eighteen (18) years of age or older; or

(b) By delivering a copy to the defendant's place of business and leaving it with a secretary or other person authorized to accept service.

(c) If, after reasonable effort is made, the defendant cannot be personally served, service may be made by sending a copy of the notice to the defendant's last known address by certified mail, return receipt requested, and sending an additional copy by regular mail.

1.6.040 Certificate of Service. A certificate of service filed with the Sauk-Suiattle Tribal Court shall constitute proof of service of the notice of violation. If service is made in the manner described in subsection 1.6.030 (c), the certificate must describe the efforts that were made to personally serve the defendant.

1.7.000 Procedure

1.7.010 Rules of Sauk-Suiattle Tribal Court to Apply. Hearings on civil infractions and abatement orders pursuant to this ordinance shall conform to the applicable Rules of the Sauk-Suiattle Tribal Court, in particular the Rules of Civil Procedure if any, except as inconsistent with this ordinance.

1.7.020 No Right to Jury Trial. There is no right to a jury trial in proceedings held pursuant to this ordinance. The Court, sitting without a jury, shall hear and decide such proceedings.

1.7.030 Appeals. Any party may appeal any final order under this ordinance. All appeals shall be governed by the applicable Rules of the Sauk-Suiattle Tribal Court, in particular the Rules of Appellate Procedure.

1.7.040 Power of the Court.

(a) If the Court finds by a preponderance of the evidence that a violation of this ordinance has been committed, it may require the violator to pay a civil penalty in an amount not to exceed the maximum penalty allowed for the infraction. The Court may also reduce any fine imposed if responsible individual proves to the Court that the violation has been corrected.

(b) Upon a showing of financial hardship, the Court may sentence a violator to perform community service hours in lieu of payment of a fine. Each hour of community service shall reduce the fine by the amount of federal minimum wage at the time of sentencing. Adequate supervision must be available before community service hours are imposed.

(c) In addition to the civil penalties imposed under this ordinance, the Court may order the responsible party to pay any actual costs incurred by the Tribe in abating the nuisance pursuant to this Ordinance.

(d) In the event of an appeal from an Order of Abatement, the Court may affirm or vacated the Order of Abatement. If the Court ruling requires abatement, an Order shall be issued to fix a time when the nuisance must be abated and shall provide that, if the nuisance is not eliminated within the time specified, the Tribe may abate the nuisance and assess the costs of the abatement to the individual found responsible for the nuisance.

1.8.000 Failure to Pay Fine

Any person who fails to pay any fine or costs assessed by the Court within thirty (30) days after it has been assessed and who fails to make other arrangements with the Court regarding payment of the fine, shall owe, in addition to the fine imposed, thirty dollars (\$30.00) for each thirty (30) day period that the fine is overdue.

1.9.000 Disposition of Funds

Civil penalties collected by the Court, which are in excess of court costs, shall be placed into an account to be used for the administration and enforcement of this ordinance. Use of the funds for such purposes may be made by the Sauk-Suiattle Tribal Council upon recommendation from Law Enforcement.

1.10.000 Private Causes of Action

Nothing in this ordinance shall prevent a person from bringing a private cause of action for damages to his or her person or property caused by a nuisance.

CERTIFICATION

Pursuant to the authority contained in Article VII, Section 1 (N) of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, ratified by the Tribe on July 19, 1975 and certified by the Secretary of Interior on September 17, 1975, pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the foregoing Ordinance was adopted this 9th day of October, 2009, at a Regular Council Meeting held at the Sauk-Suiattle Indian Reservation at which a quorum was present, by a vote of 3 for, 0 against, 1 abstain, and 3 absent.

Janice W. Mabee, Chairman

ATTEST: _____
Nancy DeCoteau, Secretary