



Rincon Band of Luiseño Indians
Illegal Dumping of Waste Matter
Ordinance No. 2009-1

May 5, 2009

RINCON BAND OF LUISEÑO INDIANS

P.O. Box 68 · Valley Center 92082 · (760) 749-1051 · Fax:(760) 749-8901



Illegal Dumping of Waste Matter Ordinance No. 2009-1

CHAPTER 1.

Section 1.1 FINDINGS

The Business Committee of the Rincon Band of Mission Indians find that improper dumping of waste matter on the Rincon Reservation threatens the health, safety, and welfare of all persons on the Reservation and poses a threat to the Band's natural resources. Improper dumping on the Reservation causes pollution and impacts the quality of life on the Reservation. The Business Committee adopts this Ordinance to protect the Rincon Tribal community and environment.

Section 1.2 JURISDICITON

This Ordinance shall apply on all lands and all persons within the boundaries of the Rincon Indian Reservation as defined by Federal Law.

CHAPTER 2.

Section 2.1 DEFINTIONS

"Waste Matter" as used in this Ordinance shall include the following:

A. Combustible rubbish:

Includes paper, rags, discarded household bedding, packing materials, cartons, boxes, containers, grass, plants, shrubs, trees, vines, and the pruning thereof, shavings, sawdust, chips, lumber scraps or other chapters from lumberyards, mills or factories and all other waste which will burn upon contact with flames of ordinary temperature. Combustible rubbish shall not include those materials listed under "Construction and Demolition Debris", below.

B. Construction and Demolition Debris:

Includes dirt, sweepings, bricks, mortar, plaster and other building and construction materials, whether combustible or noncombustible, resulting from the repair, remodeling, demolition or construction of buildings, or other structures.

C. Garbage:

Includes, but is not limited to, every accumulation of animal, vegetable, fruit or other biodegradable materials:

RINCON BAND OF LUISEÑO INDIANS

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Resulting from the preparation, selling, serving or consumption of edible foodstuffs, including the cans, containers or wrappers wasted along with such materials; or resulting from the dealing in, handling, processing, storage or decay of meats, fish, fowl, fruits, vegetables or grains; or the excrement, carcasses or residue of animals, fish or fowl; or other industrial, commercial or domestic organic solid wastes.

D. Hazardous and Toxic Waste:

Includes any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant or a strong sensitizer which generates pressure through decomposition, heat or other means, and similarly hazardous waste materials if such waste or mixture of wastes may cause substantial personal injury, serious illness, or harm to humans, water contamination, domestic animals or wild life during, or as an approximate result of, any disposal of such wastes as defined in Article 2, Chapter 2.5, Section 25117 of California Health and Safety Code. The terms “toxic”, “corrosive”, “flammable”, “irritant” and “strong sensitizer” shall be given the same meaning as in the California Hazardous Substances Act (Chapter 13 commencing with Section 28750 of Division 21 of the Health and Safety Code).

C. Miscellaneous and Bulky Debris:

Means all garbage, rubbish and other discarded materials not otherwise provided for in the foregoing or following definitions including appliances, furniture, large auto parts, trees, branches, stumps, or amounts of garbage or rubbish collected at each collection in excess of the maximum amounts permitted by this chapter, and other wastes the size, weight, or volume of which precludes or complicates their handling by normal collection methods.

D. Noncombustible Rubbish:

Includes, among other things ashes, bottles, broken glass, crockery, earthenware, metal cans, metal ware, wire products, other chapters or discarded metal or stone, automobile tires, inner tubes, batteries and metal kegs, barrels or casks. Noncombustible shall not include those materials listed under “Construction and Demolition Debris”, above.

CHAPTER 3.

Section 3.1 ILLEGAL ACTS

A. It shall be illegal to dump, place, deposit, store or accumulate any waste matter within the boundaries of the Rincon Indian Reservation in a manner that is harmful to the public health and safety as determined by the Rincon Environmental Department or Tribal Law Enforcement.

RINCON BAND OF LUISEÑO INDIANS

P.O. Box 68 · Valley Center 92082 · (760) 749-1051 · Fax:(760) 749-8901



B. This Ordinance shall not be construed to restrict a tribal member's use of his or her assignment or allotment, unless the placing, depositing or storing of such waste matter on such property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by the Rincon Environmental Department, Tribal Law Enforcement or other governmental agency charged with the protecting the health, safety and welfare of the tribal community.

C. The dumping of waste matter is permitted only when approved by Rincon Tribe through an established waste matter dumping project administered through the Tribe. Only the waste matter approved for dumping under the particular tribal project can be disposed of; any unauthorized dumping will be considered a violation of this ordinance. Dumping of waste matter is permitted only in the designated area during the hours specified by the Tribe under the waste matter project.

D. Any waste matter projects that allow for dumping will be implemented through the Tribal Administrator or a Department designated by the Tribal Government and or Administrator. If warranted, the Tribal Administrator may be directed to institute a permit procedure for participation in the waste matter dumping project. Persons that utilize a waste matter dumping project must adhere to project guidelines or rules including permitting; Any person not following these guidelines and rules will be in violation of this ordinance.

C All Tribal Members and Landowners, whose guest, renter or lessee dumps, stores, deposits, places, or accumulates waste matter on the tribal member's assignment, allotment, or land within exterior boundaries of the Rincon Reservation in violation of this ordinance will be liable for the actions of his or her guest, tenant, or lessee; Should the guest, tenant, or lessee fail to pay a fine or comply with other remedies levied against him or her pursuant to this Ordinance or the Rincon Environmental Enforcement Code, the Landowner will be fully responsible for all costs incurred by the Tribe including Fines and remedies.

CHAPTER 4.

Section 4.1 ENFORCEMENT ACTIONS

This Ordinance may be enforced by either Tribal Law Enforcement or the Rincon Environmental Department.

A. Tribal Law Enforcement.

1. A person who illegally dumps waste matter, as defined in this Ordinance, on the Reservation in the presences of a Tribal Law Enforcement Officer, may be

Bo Mazzetti
Tribal Chairman

Stephanie Spencer
Vice Chairman

Gilbert Parada
Council Member

Charlie Kolb
Council Member

Steve Stallings
Council Member

RINCON BAND OF LUISEÑO INDIANS

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cited by the Officer for violation of this Ordinance. Tribal Law Enforcement may also cite any person for illegal dumping under this Ordinance when he or she has reasonable cause to believe that such illegal dumping has occurred.

2. A violation report under this Ordinance shall include the following:

A statement that illegal dumping is a civil infraction and a non-criminal offense for which imprisonment is not an available sanction;

A statement briefly describing the conduct of the person which led to the violation;

A statement listing the monetary penalty imposed for the civil infraction;

A statement on how the person may contest the infraction;

A statement that the person must respond to the violation within thirty (30) days from the date of service of the violation;

A statement that failure to respond to the violation or failure to appear at a requested hearing will result in a default judgment against the person in the amount of the violation plus a sanction imposed by the Court for person's failure to appear;

3. The violation may be served on the person in the following manner;

Personal service; or

Mailing the civil violation by certified or registered mail, return receipt requested, addressed to the person at his or her mailing address if known, or such other place which is believed to give the occupant or owner actual notice of the civil citation by the enforcement officer.

Service is deemed effective on the date of the personal service or when the certified mail is either delivered or delivery is attempted. If the certified mail receipt is returned unsigned, then service shall be deemed effective on the date three days following deposit in the mail.

Where service of any notice required under this Ordinance is effected in compliance with this Section and with due process the asserted failure of any person to receive the notice shall not affect the validity of any proceedings taken under this Ordinance.

A copy of civil citation and, if applicable, the proof of service shall be filed with the Tribal Court within seventy-two (72) hours of issuance, excluding weekends and holidays. If the Tribal Court within this timeframe does not receive the citation, the Tribal Court may dismiss the citation without prejudice.

RINCON BAND OF LUISEÑO INDIANS

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All hearings on a citation filed by Tribal Law Enforcement before the Tribal Court shall be held in compliance with the Tribal Court Code of Civil Procedure and Rules of Court Title 1, Section 1. Civil Infraction and Section 2. Hearings.

B. Rincon Environmental Department

The Rincon Environmental Department may process complaints for violations of this Ordinance pursuant to the procedures as set forth in the Rincon Environmental Enforcement Code Title III.

4.2 Penalties

1. Any person found to have violated this Ordinance may be fined in the following amount:

FEE SCHEDULE

Illegal Dumping Violations		
Class A	-Household trash on roadside (no hazardous waste)	\$1,000.00
Class B	1-10 gallons of hazardous substance	\$1,500.00
Class C	-60-120 gallons of household trash	\$1,500.00
Class D	-30 plus gallons or feet of hazardous substance	\$2,000

2. A person who has violated this ordinance may be held financially responsible for remediation and clean up costs associated with his or her illegal dumping.
3. Second offenders may be incur a fine that is twice the amount of the listed fee schedule fine.
4. The Tribal Court may also issue any remedy or penalty provided for under the Rincon Environmental Code or that is deemed fair and just.

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CHAPTER 5.

5.1 ADOPTION. This ordinance shall take effect when adopted by a majority vote of the Business Committee and shall supersede all other illegal dumping Ordinances of the Band.

5.2 AMENDMENTS. Amendments to this ordinance shall be approved by the Business Committee and said amendments will supersede any and all dumping law or ordinance to date.

CERTIFICATION

We, the undersigned, as the governing body of the Rincon Band of Luiseño Mission Indians of the Rincon Reservation, California, do hereby certify that the Rincon Business Committee is composed of five (5) members, of whom ~~four~~ 4 constituting a quorum were present, at a meeting duly held on May 5, 2009, by a vote of 4 for, 0 opposed, 0 abstaining, and 1 absent.

Bo Mazzetti, Chairman

Stephanie Spencer, Vice Chairwoman

Gilbert Parada, Council Member

Charlie Kolb, Council Member

Steve Stallings, Council Member