



Picayune Rancheria  
of the

## CHUKCHANSI INDIANS

46575 Road 417 • Coarsegold, CA 93614 • (559) 683-6633 • FAX (559) 683-0599

### LOST AND ABANDONED PROPERTY ORDINANCE

**Section 1. Title.** This Ordinance shall be known as the Picayune Rancheria of Chukchansi Indians Lost and Abandoned Property Ordinance.

**Section 2. Findings and Purpose.** The PICAYUNE RANCHERIA OF CHUKCHANSI INDIANS ("Tribe" or "Tribal") Tribal Council, on behalf of the General Council, finds that:

a. Historically, a significant number of personal property items and vehicles have been lost or intentionally abandoned in Tribal Facilities and on Tribal Lands.

b. It is in the best interest of the Tribe to prohibit the intentional abandonment of property and vehicles and to establish mandatory procedures for reporting, holding and disposing of such items.

c. With respect to property that is lost and the rightful owner cannot be found, it is the purpose of this Ordinance to establish uniform procedures for securing such property and transferring ownership to the Tribe in cases where the property has material value.

**Section 3. Effective Date and Publication.**

3.1. **Effective Date.** This Tribal Ordinance and the requirements, appointments, and other matters established and adopted hereby shall take effect and be in full force and effect from and after 12/22 2008, the date of final passage and approval pursuant to Tribal Council Resolution No. 2008-103

3.2. **Certification of Adoption and Publishing.** The Tribal Secretary shall certify the adoption of this Tribal Ordinance and cause the same to be published as required by Tribal Law.

**Section 4. Definitions.**

4.1. For the purpose of this Ordinance, unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases shall be defined as follows:

4.1.1 **Abandoned Motor Vehicle:** means any operative or inoperative motor vehicle, motorcycle, vessel, or commercial truck that has been left on Tribal Lands or Tribal Facilities in violation of this Ordinance.

4.1.2 **Casino Resort Facility:** means the facilities housing, supporting or surrounding the Tribe's casino resort operation known as the "Chukchansi Gold Resort and Casino" including all rooms, buildings, recreation and other areas that comprise such facilities, including parking facilities and walkways.



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4.1.3 Custodial Period: means a period of thirty (30) consecutive calendar days beginning on the date (i) on which property subject to this Ordinance is first delivered to a Designated Custodian; or (ii) on which the Designated Custodian receives a report relating to property subject to this Ordinance and takes action in accordance with Section 6.3 to secure such property.

4.1.4 Designated Custodian: means (i) any employee of the Tribe who is authorized and designated by the Tribal Administrator or the Tribal Secretary to carry out the duties set forth at Section 6 of this Ordinance, and (ii) in the case of money, property or vehicles found at the Casino Resort Facility, any Security Officer who is charged with such responsibility by the Casino General Manager or the Director of the Security Department.

4.1.5 Escheat: means when the title to property is transferred to the Tribe, making the Tribe the legal owner of the property.

4.1.6 Gaming Security Officer or Security Officer: means a member of the Casino Resort Facility's security staff, including the Director of the Security Department.

4.1.7 Junk: means tangible property which is damaged, nonfunctional or inoperable and which, in the judgment of a reasonable person, has no intrinsic value.

4.1.8 Law or Tribal Law: means the laws of the Picayune Rancheria of Chukchansi Indians.

4.1.9 Lost or Abandoned Property: means all tangible personal property and money which does not have an identifiable owner and which has been abandoned, lost or mislaid on Tribal Lands, the Gaming Resort Facility, or other Tribal Facilities.

4.1.10 Officer or Employee: means any officer, official, employee, agent, representative or contractor of the Tribe, Chukchansi Economic Development Corporation ("CEDA"), or any other Tribal Department, entity or business, including the Casino Resort Facility.

4.1.11 Tribal Administrator: means the individual employee of the Tribe who is serving in the capacity of Administrator for the Tribe.

4.1.12 Tribal Council: means the duly elected governing body of the Picayune Rancheria of Chukchansi Indians.

4.1.13 Tribal Department: means an agency, department, division, entity or instrumentality of the Tribe that is responsible for a component of Tribal operations or that operates facilities open to the public which are located on Tribal Lands.

4.1.14 Tribal Facilities: means commercial and governmental buildings and premises, walkways, roads, conveyances, parks, and recreation areas open to the public, owned

by the Tribe and located on Tribal Lands including, without limitation, the Casino Resort Facility. Such term does not include housing residences owned by the Tribe or its members.

4.1.15 Tribal Lands: means all lands under the jurisdiction of the Tribe pursuant to the Tribal Constitution.

4.1.16 Tribal Secretary: means the duly elected Secretary of the Picayune Rancheria of Chukchansi Indians.

4.1.17 Tribe: means the Picayune Rancheria of Chukchansi Indians.

**Section 5. Prohibition on Abandoning Property or Vehicles.**

5.1. Except with the express consent of an Officer or Employee of the Tribe, no person shall leave or cause to be left on Tribal Lands, in Tribal Facilities, or upon any premises owned or controlled by the Tribe, any item of tangible personal property or any vehicle.

5.2. This Ordinance shall govern the treatment and disposition of any and all property coming into the possession of the Tribe in violation of Section 5.1, including Lost or Abandoned Property or Abandoned Vehicles. All Officers and Employees are authorized and required to comply with the obligations and procedures set forth in this Ordinance.

**Section 6. Obligations of Officers, Employees and Designated Custodians.**

6.1. Any Officer or Employee who finds or receives from any person any Lost or Abandoned Property, shall (i) deliver or cause to be delivered such Lost or Abandoned Property to a Designated Custodian and shall provide information regarding the location where the property was found and any other pertinent information, or (ii) shall report the description and location of the property to another Officer or Employee at or near the area where the Lost or Abandoned Property is located. With regard to property found at the Tribe's Gaming Facility, delivery of the item or a report may be made to any employee of the Security Department of the Gaming Resort Facility.

6.2. No Officer or Employee of the Tribe shall keep for his or her own use property that he or she should reasonably conclude was lost or abandoned that has been discovered, turned over, found by or reported to him or her, whether or not such discovery was in the course of his/her normal duties.

6.3. Upon receipt of property or a report of Lost or Abandoned Property, the Designated Custodian shall take possession of the property (if feasible), and shall, in all cases, use his/her best efforts to secure and maintain the property for the Custodial Period. The Designated Custodian shall catalog the item, list the date of discovery, location of discovery, estimate a value for the item, and if applicable, list the finder, along with his/her contact information.

6.4. During the Custodial Period, the Designated Custodian shall make a reasonable attempt to locate the rightful owner of the property, if the property contains indentifying information.

6.5. The Designated Custodian shall permit an individual to claim Lost or Abandoned Property or Abandoned Vehicle if such individual is able to show sufficient proof that he/she is the rightful owner.

6.6. To the extent there are any material costs associated with the recovery, maintenance, security or delivery of any property subject to this Ordinance, the Designated Custodian may require the rightful owner of such property to pay any applicable costs.

#### **Section 7. Procedure Following Expiration of Custodial Period.**

7.1. Following the expiration of the Custodial Period, in cases where the property has a fair market value of less than one hundred dollars (\$100.00), the Designated Custodian may elect one of the following actions:

- a. retain the item for use by any Tribal Department;
- b. donate the item to a charitable organization;
- c. surrender the item to the finder; or
- d. dispose of the property.

7.1.1 Record of Action. The Designated Custodian shall maintain a record of all items coming into his custody, including the disposition action. Such records shall be maintained for at least one (1) year from the date of action.

7.2. With respect to any item of Lost or Abandoned Property valued at more than one hundred dollars (\$100.00), the Designated Custodian shall, following the expiration of the Custodial Period, transfer such item to the Tribal Secretary.

7.3. Pursuant to Section 12.2 below, the Designated Custodian is authorized to determine fair market value for purposes of this section using his or her own reasonable judgment and/or limited research.

#### **Section 8. Property Transferred to Tribe.**

8.1. Property that has been transferred to the Tribal Secretary in accordance with Section 7.2 of this Ordinance shall be cataloged by the Tribal Secretary or his/her designee. The Tribal Secretary or designee shall record the date the property was transferred to the Secretary, a description of the property, and the fair market value of the property.

8.2. Upon expiration of the Custodial Period, the property shall escheat to the Tribe. The Tribal Secretary is hereby authorized by the Tribal Council to:

- a. retain the item for use by any Tribal Department;

- b. donate the item to a charitable organization;
- c. sell the property;
- d. allow the property to be the subject of a raffle to Tribal members or similar action;
- or
- e. if the above are not feasible, dispose of the property or contract with a refuse removal service to appropriately dispose of the property.

8.3. Whenever any Property is sold in accordance with this Ordinance, the proceeds of such sale shall be paid to the Tribal Treasurer, with proceeds deposited into the General Fund of the Tribe.

8.4. The Tribal Secretary or his/her designee shall maintain for one (1) year an inventory of all property that has escheated to Tribe in accordance with this Ordinance. The inventory shall include a record of the disposition, any payment received for the property, and the name and address of any department, person or charitable organization acquiring the property.

**Section 9. Procedure for Abandoned Motor Vehicles.**

9.1. Whenever a report is received or when an Officer or Employee ascertains that a motor vehicle has been abandoned on Tribal Lands, the Officer or Employee shall inform the applicable Designated Custodian who shall cause a notice to be placed upon the motor vehicle in substantially the following form:

**NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.** This property, to wit: (Setting forth a brief description) is unlawfully upon Tribal Property known as (setting forth brief description of location) and must be removed within five (5) days; otherwise, it will be removed and disposed of pursuant to Tribal Law. The owner shall be liable for the costs of removal, storage, and any publication of notices. Dated this: (setting forth the date of posting of notice), signed: (setting forth name, title, address and telephone of Tribal Department).

9.2. Such notice shall be not less than "8 X 10" inches and shall be sufficiently weatherproof to withstand normal exposure to the elements.

9.3. Prior to posting the notice, the Designated Custodian shall make a reasonable effort to ascertain the name and address of the motor vehicle owner and to contact the owner and arrange for pick up or removal of the Abandoned Motor Vehicle. If no contact can be made or the owner is unknown the Designated Custodian shall contact the California Highway Patrol or local law enforcement agency in order to determine the name and address of the owner and any person or entity that has filed a lien on the Abandoned Motor Vehicle. On receipt of information, the Designated Custodian shall mail a copy of the notice via certified mail, return receipt requested, to the owner and to the lien holder, if any.

9.4. After mailing a copy of the notice to the owner or lien holder, or after reasonable efforts prove that no owner or lien holder can be located, the Designated Custodian may post the notice described in Section 9.1 on the Abandoned Motor Vehicle. If at the end of seven (7) days after posting of the notice; the owner or person interested in the motor vehicle described has not removed the vehicle from Tribal Lands or Tribal Facilities or shown reasonable cause for failure to do so, the following shall apply:

- a. The Abandoned Motor Vehicle shall become property of the Tribe, the Tribal Secretary may direct the disposition of the Abandoned Motor Vehicle pursuant to Section 8.2 herein.

**Section 10. Disposition of Money.** When Lost or Abandoned Property is money, all provisions of this Ordinance shall apply; provided, however, that the Custodial Period shall be ninety (90) rather than thirty (30) days. After the expiration of ninety (90) days from the date a Designated Custodian first acquires custody of any money, said money shall escheat to the Tribe and shall be delivered to the Tribal Secretary or Tribal Treasurer for deposit into the General Fund of the Tribe.

**Section 11. Procedure for Disposal of Junk.** If property is determined to be Junk, it may be disposed of by any Officer or Employee in any manner such Officer or Employee deems most expedient, subject to the normal procedures of the Tribe for disposing of garbage and junk. The reporting and custodial provisions of this Ordinance shall not apply to property that is determined to be Junk.

**Section 12. Miscellaneous Provisions.**

12.1. Whenever this Ordinance provides for an auction, sale or other disposition of property, the Tribal Administrator and/or the Tribal Secretary shall be authorized to take or direct such action as reasonably required to sell or otherwise dispose of the property in accordance with this Ordinance.

12.2. Whenever this Ordinance requires a determination of the fair market value of property, that decision shall be made by the Designated Custodian for that property, whose decision shall be final, or, in the case of Internet auctions, by the auction company.

**Section 13. Inconsistent Codes Repealed.** All other codes or portions of codes in conflict herewith are hereby repealed in that respect only.

**Section 14. Sovereign Immunity.** Nothing in this Ordinance is intended nor shall it be construed to waive the sovereign immunity of the Picayune Rancheria of the Chukchansi Indians, its officers, agents, members, employees, tribal entities or tribal enterprises, nor to confer any jurisdiction on any federal, state or local governmental officer, entity or agency.