CONSOLIDATED BOROUGH OF

QUIL CEDA VILLAGE

Resolution No. 2009-003

Quil Ceda Village Civil Infractions Ordinance 08.02.1

WHEREAS, the Village Council is the governing body of the Consolidated Borough of Quil Ceda Village under the Village Charter approved by the Tulalip Tribes' Board of Directors pursuant to Ordinance 111, and

WHEREAS, the Village Council is empowered by Article I, Section 3 and Article VII, Sec. 2(b) of the Charter to exercise governmental powers to protect public safety, health and welfare of all persons within the Village, and

WHEREAS, the Village Council finds that many minor errors in behavior or practice can be appropriately remedied by the imposition of civil money penalties, and

WHEREAS, the Village Council finds that the establishment of a system of civil infractions is a more expeditious and less expensive method of remedying minor errors and will decrease the cost and workload of the Tribal Court, and

WHEREAS, penalties assessed under the attached Civil Infractions Ordinance are to be regarded as civil and remedial in nature and in part to compensate the agencies of the Village for cost of maintaining a safe and productive society within the Consolidated Borough of Quil Ceda Village.

NOW THEREFORE BE IT ENACTED by the Council of the Consolidated Borough of Quil Ceda Village as follows:

The Tulalip Tribes' Civil Infractions Ordinance 114 as it is hereafter maybe amended, in addition to the subsequent sections 1, 2, and 3 below is hereby adopted as an Ordinance of the Consolidated Borough of Quil Ceda Village and is known as the Quil Ceda Village Civil Infractions Ordinance 08.02.1. Ordinance 08.02.1 shall be on file in the office of the Consolidated Borough of Quil Ceda Village and is hereby referred to and adopted as an Ordinance of the Village, as is fully set out in this Resolution, with the additions, insertions, deletions and changes, if any, prescribed in the following sections of this Resolution.

Section 1. Any reference to the Board of Directors shall mean the Quil Ceda Village Council.

Section 2. Any reference to the Tulalip Tribal Jurisdiction shall mean the Quil Ceda Village Jurisdiction.

Section 3. Any reference to the "Tribes" shall mean the "Village."

Adopted by the Village Council at a regular meeting assembled on the 17th day of February, 2009, with a quorum present, by a vote of 3 for and 0 against.

THE CONSOLIDATED BOROUGH OF QUIL CEDA VILLAGE

Stanley G. Jones Sr

Stanley G. Jones, Sr., Village President

ATTESTED:

Village Clerk

Consolidated Borough of

Quil Ceda Village

Ordinance 08.02.1

Civil Infractions

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Civil Infractions

1. Legislative finding

The Board of Directors finds that many minor errors in behavior or practice can be appropriately remedied by the imposition of civil money penalties. The establishment of a system of civil infractions is a more expeditious and less expensive method of remedying of minor errors will decrease the cost and workload of the tribal courts. Penalties assessed under this Ordinance are to be regarded as civil and remedial in nature and in part to compensate the agencies of the Tribes and its subdivisions for cost of maintaining a safe and productive society within the Tulalip Tribal jurisdiction.

2. Jurisdiction of courts

The Tribal court has the authority to hear and determine, pursuant to this Ordinance, civil infractions that are established within the tribal jurisdiction by tribal ordinance and municipal code or ordinance infractions that are committed within the jurisdiction of a tribal municipality.

3. "Enforcement officer" defined

As used in this Ordinance, "enforcement officer" means a person authorized by tribal or municipal ordinance to enforce the provisions of the title or ordinance in which the civil infraction is established.

4. Notice of infraction — Issuance, service, filing

A. A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.

B. A notice of civil infraction may be issued by tribal enforcement officer when the civil infraction occurs in the officer's presence.

C. The tribal court may issue a notice of civil infraction if an enforcement officer files with the court a written statement that the civil infraction was committed;

D. Service of a notice of a court issued civil infraction issued under subsection (2) of this section shall be as provided by tribal court rule.

E. A notice of infraction shall be filed with a court having jurisdiction within seventy-two hours of issuance, excluding Saturdays, Sundays and holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice.

5. Person receiving notice — Identification and detention

A person who is to receive a notice of civil infraction under Section 4 of this Ordinance is required to identify himself or herself to the enforcement officer by giving his or her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver's license or identicard. A person who is unable or unwilling to reasonably identify himself or herself to an enforcement officer may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a civil

infraction. Each agency is authorized to issue civil infractions shall adopt rules on identification and detention of persons committing civil infractions.

6. Notice — Determination final unless contested — Form

A. A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this Ordinance.

B. The form for the notice of civil infraction shall include the following:

a. A statement that the notice and that the determination is final unless contested as provided in this Ordinance.

b. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

c. A statement of the specific civil infraction for which the notice was issued;

d. A statement of the monetary penalty established for the civil infraction;

e. A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

f. A statement that at any hearing to contest the determination the Tribes has the burden of proving, by a preponderance of evidence, that the civil infraction was committed and that the person may subpoena witnesses including the enforcement officer who issued the notice of civil infraction;

g. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of civil infraction, the person will be deemed to have committed the civil infraction and may subpoena witnesses.

h. A statement that the person must respond to the notice as provided in this chapter within fifteen days;

i. A statement that failure to respond to the notice of a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty and that this failure may be referred to the tribal attorney for further sanctions for failure to respond or appear;

j. A statement, which the person shall sign, that the person promises to respond to the notice of civil infraction in one of the ways provided in this Ordinance.

k. A statement that failure to respond to a notice of civil infraction as promises or to appear at a requested hearing may result in default orders and assessment of additional costs.

7. Response to notice — Contesting determination — Mitigating circumstances — Hearing — Failure to respond or appear

A. Any person who receives a notice of civil infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

B. If the person determined to have committed the civil infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of civil infraction and submitting it either by mail or in person, to the tribal court. A check or money order in the amount of the penalty prescribed for the civil infraction must be submitted with the response. The clerk of court may accept cash in payment for an infraction. When a response which does not contest the dtermination is received, an

appropriate order shall be entered in the court's records.

C. If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing and submitting it, either by mail or in person, to the tribal court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than ninety days from the date of the notice of hearing, except by agreement.

D. If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court. The court shall notify the person in writing of the time, place and date of the hearing, and that date shall not be earlier than seven days nor more than ninety days from the date of the notice of hearing, except by agreement.

E. The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction and may notify the tribal attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction;

a. Fails to respond to the notice of civil infraction as provided in subsection (2) of this section; or

b. Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section.

8. Hearings — Rules of procedure — Counsel

A. Procedures for the conduct of all hearings provided in this Ordinance may be established by rule of the tribal court.

B. Any person subject to proceedings under this chapter may be represented by counsel.

C. The attorney representing the Tribes may appear in any proceedings under this Ordinance but need not appear, notwithstanding any statute or rule of court to contrary.

9. Hearings — Contesting determination that infraction committed — Appeal

A. A hearing held for the purpose of contesting the determination that a civil infraction has been committed shall be without a jury and shall be recorded.

B. The court may consider the notice of civil infraction and any other written report mace under oath submitted by the enforcement officer who issued the notice of whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may request the court for issuance of subpoena of witnesses, including the enforcement officer who issued the notice, and has the right to present evidence and examine witnesses present in court.

C. The burden of proof is upon the Tribes to establish the commission of the civil infraction by a preponderance of the evidence.

D. After consideration of the evidence and argument, the court shall determine whether the civil infraction was committed. Where it has not been established that the civil infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the civil infraction was committed, an appropriate order shall be entered in the court's records.

E. The appeal from the court's determination or order shall be to the tribal court of appeals.

10. Hearings — Explanation of mitigating circumstances

A. A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of a civil infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

B. After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

C. There is no appeal from the court's determination or order on mitigation.

11. Monetary penalties — Restitution

A. A person found to have committed a civil infraction shall be assessed a monetary penalty which shall reflect the cost of enforcement, disposition and adjudication.

a. The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars.

b. The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

c. The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

d. The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

B. Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the tribal attorney of the failure to pay.

C. The court may also order a person found to have committed a civil infraction to make restitution.

12. Order of court — Civil nature — Modification of penalty — Community service

A. An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

B. The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the ten Washington State minimum wage per hour.

13. Costs and attorney fees

Except where a respondent has failed to attend a scheduled hearing. Each party to a civil infraction case is responsible for costs incurred by that party, but he court may assess witness fees against a nonprevailing respondent. Attorney fees may be awarded to either party in a civil infraction case

14. Citations, audits

Every law enforcement agency of the Tribes shall provide in appropriate form notices of civil infractions which shall be issued in books with notices in quadruplicate and meeting the requires of this section. The chief administrative officer of every such agency shall be responsible for the issuance of such books and shall maintain a record of every such book and each notice contained therein issued to individual members or employees of the agency and shall require and retain a receipt for every book so issued. Every tribal law enforcement officer or other person upon issuing a notice of civil infraction to an alleged perpetrator of a civil infraction under the laws of the Tribes shall deposit the original or a copy of such notice of civil infractions shall require the return to him or her of a copy of every notice issued by a person under his or her supervision to an alleged perpetrator of a civil infraction under any law or ordinance and of all copies of every notice which has been spoiled or upon which any entry has been made and not issued to an alleged perpetrator. Such chief administrative officer shall also maintain or cause to be maintained in connection with every notice issued by a person under his or her supervision a record of the disposition of the charge by the court in which the original or copy of the notice was deposited. Any person who cancels or solicits the cancellation of any notice of civil infraction in any manner other than as provided in this section, is guilty of a Class A offense. Every record of notices required in this section shall be audited by the appropriate fiscal officer of the Tribes.

15. Notice, failure to sign, nonappearance — Failure to satisfy penalty

A. A person who fails to sign a notice of civil infraction may be found in default of the claim of infraction.

B. Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction may be found in default of the claim of infraction and assessed costs. A written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

C. A person who willfully fails to pay a monetary penalty or restitution or to perform community service as required by a court under this ordinance may be found in contempt of court.