

# JAMUL INDIAN VILLAGE

## TRESPASS ORDINANCE

Ordinance No. 2021-02

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### **Section 1.     Title**

This ordinance shall be entitled the Jamul Indian Village Trespass Ordinance (the "**Trespass Ordinance**").

### **Section 2.     Authority**

The Trespass Ordinance is authorized and adopted pursuant to Article 9, Section 1 of the Constitution.

### **Section 3.     Purpose**

The purpose of this Trespass Ordinance is to (i) provide a means for the Tribe to protect its property; preserve the peace, safety, health and general welfare of the members of the Tribe and those permitted to enter on the Lands of the Tribe; (ii) ensure peace and order on the Lands of the Tribe; and (iii) establish rules and procedures for the imposition of fines against persons within the jurisdiction of the Tribe that trespass on the Lands of the Tribe.

### **Section 4.     Jurisdiction**

The Tribe has the inherent jurisdiction to protect the peace, health, safety, environment, morals and general welfare of the Lands of the Tribe and to regulate its internal affairs.

### **Section 5.     Scope**

This Ordinance will be applicable to all persons and lands within the exterior boundaries of the Lands of the Tribe.

### **Section 6.     Definitions**

For purposes of this Trespass Ordinance, the capitalized terms shall have the following meanings:

"**Authorized Officer**" means a Tribal Council member, the Tribal Administrator, a Tribal Security Officer, or, with respect to the Jamul Casino property, a Jamul Casino Security Officer; provided such individuals are acting within their official capacity.

"**Constitution**" means the Constitution of the Jamul Indian Village as duly adopted by the members of the Tribe on April 1, 2017, pursuant to an election held on April 1, 2017, authorized by the Regional Director of the United States Department of the Interior, Bureau of Indian Affairs and approved by the Regional Director of the United States Department of the Interior, Bureau of Indian Affairs on April 28, 2017, as may be amended.

"**General Council**" means the governing body of the Tribe pursuant to the Constitution.



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**"Lands of the Tribe"** means all lands owned by the Tribe, including lands held in trust by the United States for the benefit of the Tribe.

**"Majority Vote of the General Council"** means, for purposes of this Trespass Ordinance, more than 50% of the qualified voters present and voting at a duly called and convened General Council meeting at which a quorum is present.

**"Minor"** means a person under the age of eighteen (18) years, excluding emancipated minors.

**"person"** shall mean any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.

**"Tribal Court"** means the Intertribal Court of Southern California, or, to the extent established, a three-person commission established by the Tribal Council to hear any challenges to a citation, fine, or order pursuant to this Trespass Ordinance.

**"Tribal Council"** means the duly elected "Tribal Council" referred to in the Constitution.

**"Tribal"** and **"Tribe"** means the Jamul Indian Village of California, a federally recognized sovereign nation.

### **Section 7.     Trespass Prohibited**

(a) Trespass on Lands of the Tribe is hereby prohibited, and the General Council hereby declares that persons committing a trespass threaten the peace, health, safety, environment and political integrity and economic security of the Tribe. Any person who commits trespass to the Lands of the Tribe shall be subject to the remedies, as set forth in this Trespass Ordinance. Issuance of a citation and/or a Tribal Court order does not preclude prosecution of the trespass under applicable Federal or State law.

(b) For purposes of this Trespass Ordinance, a trespass is a civil infraction. Trespass is defined as every wrongful entry on the Lands of the Tribe. Any person causing a trespass is guilty of a violation of this Trespass Ordinance. Wrongful entry onto the Lands of the Tribe includes, but is not limited to:

(1) Entry on the Lands of the Tribe (or a portion thereof) in violation of a notice posted on the premises, or in violation of any exclusion order, notice, warning or protest given verbally or in writing by an Authorized Officer.

(2) Failure to depart from the Lands of the Tribe (or portion thereof) if requested by an Authorized Officer.

(3) Occupying or using the Lands of the Tribe without consent.



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(4) Intentionally and without authorization accessing, altering, deleting, damaging, destroying, or disrupting any computer, computer system, computer network, computer program, or data.

Trespass does not include entry or other actions done or maintained under the express authority of a lease, permit or license, duly approved or issued, by the General Council or Tribal Council (as applicable).

### **Section 8. Citation for Trespass**

(a) Every Authorized Officer is vested with the authority to issue citations for violations of this Trespass Ordinance committed in their presence or where probable cause exists that a violation of this Trespass Ordinance occurred. The citation shall be issued as soon as possible to the date and time of the violation.

(b) The citation shall be signed by the Authorized Officer and served on all persons alleged responsible for a violation of this Trespass Ordinance. The citation must include:

(1) A statement: (i) describing the conduct of the person that violated this Trespass Ordinance, (ii) listing the fine imposed for the violation of this Trespass Ordinance, and (ii) indicating that the person may be noticed by separate letter from the Tribal Court that the fine amount has increased in the event of a determination by the Authorized Officer that the person has previous violations of this Trespass Ordinance.

(2) A statement that the Tribe considers the citation a final determination of the person's guilt and liability to pay the fine printed on the citation, unless the person contests the citation in the Tribal Court.

(3) A statement listing the ways the person may respond to the citation.

(4) A statement that failure to respond to the citation or failure to appear at a requested hearing will result in a default judgment against the person in the amount of the citation plus a sanction imposed by the Tribal Court for the person's failure to appear.

(c) A person committing a violation of this Trespass Ordinance shall be subject to a civil fine, as set forth in the attached Schedule of Fines, which may be amended from time to time by the Tribal Council. A person shall be subject to an increased fine if he or she is found to have violated any provisions of this Trespass Ordinance more than once within a twelve-month period, up to the maximum amount established by the Constitution.



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#### **Section 9. Service of Citation**

A citation may be served in any of the following ways:

(a) By personal service on the person determined responsible for the violation, a copy of the citation signed by the person shall suffice as proof of service. Service is deemed effective on the date of the personal service.

(b) By mailing the notice by certified mail, return receipt requested, to the responsible person at the person's last known address. Service is deemed effective when the certified mail is either delivered or delivery is attempted. If the certified mail receipt is return unsigned, then services shall be deemed effective on the date three (3) days following deposit in the mail.

(c) By posting the notice in a conspicuous place on the offending property; provided, however, that service by posting shall only be used when the Authorized Officer cannot determine the last known address of the person.

(d) A copy of the citation, and if applicable, the proof of service shall be filed with the Tribal Court within five (5) business days of issuance, excluding weekends and holidays.

#### **Section 10. Responding to a Citation**

A person shall respond to the citation by either paying the fine within thirty (30) days of the date on which the notice was issued, or by requesting a hearing to contest the citation.

(a) If the person requests a hearing to contest the citation, the person must submit a written request for a hearing to the Tribal Court within fifteen (15) days of the date on which the citation was served.

(b) Once the Tribal Court receives the written request for a hearing, the Tribal Court will notify the person of the time, place and date for the hearing, which shall be no less than seven (7) days and no more than thirty (30) days from the date the Tribal Court receives the written request for hearing.

#### **Section 11. Failure to Respond**

If the person fails to pay the fine or request a hearing within the time set forth above, the Tribal Court shall enter a default judgement against the person, impose additional sanctions for failure to respond, and send the outstanding fine to a collection agency.

#### **Section 12. Burden of Proof**

(a) The burden of proving that a civil infraction under this Trespass Ordinance has been committed shall be on the Tribe.



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(b) The Tribe shall be considered to have met the burden of proof if the Tribe's evidence shows it is more likely than not the infraction was committed.

#### **Section 13. Remedies**

Upon finding that a trespass has occurred, the Tribal Court will issue such order as will provide an appropriate remedy, including but not limited to civil fines, temporary or permanent injunction, a restraining order, or an order of removal.

#### **Section 14. Civil Fines**

(a) In addition to being subject to removal from the property, or being subject to a temporary or permanent injunction or restraining order, in any case where a person has been found to have committed a trespass and a fine has been assessed, the person has thirty (30) days to pay the civil fine. Parent(s), guardians, or any adult responsible for the care of a Minor are liable for the civil fine of a minor.

(b) If the person has not paid the civil fine within the thirty (30) day period, the Tribal Court may take any and all actions necessary to collect the civil fine, including but not limited to the following:

- (1) Refer the civil fine to a collection agency or other collection institution;
- (2) Order an employer on the Lands of the Tribe to garnish up to twenty-five (25%) of the violator's wages; and
- (3) Issue a garnishment order against an employer or any other entity that provides the violator wages or money.

#### **Section 15. Authority to Remove**

Any person trespassing may be forcibly removed and ejected from Tribal Land by a Tribal Security Officer, or, with respect to the Jamul Casino property, a Jamul Casino Security Officer, or a state or federal law enforcement official.

#### **Section 16. Money Damages for Violation**

Any person who violates any provision of this Trespass Ordinance shall be strictly liable for all damages resulting from such violation, in addition to any civil fine set out in Section 8(c). The Tribal Council, on behalf of the Tribe, may bring suit in any court of competent jurisdiction for damages the Tribe has incurred as a result of the trespass. The Tribe may seek money damages, injunctive relief, costs of the suit, and attorneys' fees. If liability is established and the Tribal Court orders restoration of the area affected, the Tribal Court shall make provision to ensure that restoration is accomplished within a reasonable time and at the sole cost of the violator.



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#### **Section 17. Severability**

If any part of this Trespass Ordinance is held to be invalid, the remainder shall continue to be in full force and effect to the maximum extent possible.

#### **Section 18. Repeal of Prior Inconsistent Enactments**

This Trespass Ordinance supersedes and replaces any prior trespass ordinance of the Tribe as well as any provision of another other ordinance, resolution, or official enactment that is inconsistent with the terms of this Trespass Ordinance.

#### **Section 19. Adoption and Amendment**

This Trespass Ordinance shall be adopted by a Majority Vote of the General Council and may be amended by the General Council or the Tribal Council.

#### **Section 20. Sovereign Immunity**

All inherent sovereign rights of the Tribe as a federally recognized Indian Tribe with respect to the provisions authorized in this Trespass Ordinance are hereby expressly reserved, including sovereign immunity from uncontested suit. Nothing in this Trespass Ordinance shall be deemed or construed as a waiver of the sovereign immunity from uncontested suit of the Tribe, any of the Tribe's subordinate entities or the Tribal Court, or any of their respective officers, employees, or agents acting within their official capacity.

#### **Section 21. Effective Date**

This Trespass Ordinance shall be effective as of the date that it is adopted by the General Council ("**Effective Date**").

**JAMUL INDIAN VILLAGE OF CALIFORNIA**

**SCHEDULE OF FINES**

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*Effective September 14, 2021*

<b>Violation</b>	<b>1<sup>st</sup> Offense in 1 year:</b>	<b>2<sup>nd</sup> Offense in 1 year:</b>	<b>3<sup>rd</sup> Offense in 1 year:</b>
Violation of the Trespass Ordinance	\$250.00	\$500.00	\$750.00



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