



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Indian Reservation*

**TRESPASS ORDINANCE**

**101. Findings**

The Big Pine Tribal Council (Tribal Council), as the federally recognized governing body for the Big Pine Paiute Tribe of the Owens Valley (Tribe), after careful review, has determined that there is a need for Tribal governmental regulations in the areas dealing with trespass to both Tribal property and individual assignments.

The Tribal Council, pursuant to its inherent sovereignty, exercises its authority in providing for a comprehensive regulation of trespass issues.

**102. Declaration of Policy**

It is the policy of this ordinance to promote the general health, safety and welfare of all residents of the Big Pine Indian Reservation and, in furtherance of the sovereign right of self-governance of the Tribe, the Tribal Council declares its commitment to the establishment and maintenance of rules and regulations covering the subject matter of this ordinance.

**103. Definition of Trespass**

Trespass is defined as every wrongful entry on real property in the occupation or possession of another, or the wrongful refusal to vacate (leave) real property once the right to enter has terminated. The following are nonexclusive examples of a wrongful entry or occupancy of real property. Nothing which is done or maintained under the express authority of an ordinance or lawful permit or license issued by the Tribal Council shall be a trespass. This definition applies to both Tribal and individual assignments.

- (1) Entry upon the premises of another, including any Tribal property, in violation of a notice posted on the premises, or in violation of any notice, warning or protest given orally or in writing by any owner or legal occupant; or
- (2) Failure to depart from the premises of another if requested by any owner or legal occupant thereof.
- (3) Any person or entity causing or creating a trespass as herein defined is guilty of a violation of this ordinance.



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Indian Reservation*

**104. Authorized Official**

An authorized official means any person or persons designated and empowered by the Tribal Council to investigate whether a violation of this ordinance has occurred and to enforce the provisions of this ordinance as ordered by the Tribal Council.<sup>1</sup>

(1) Citation for Civil Infraction. If an authorized official determines that a trespass has occurred, that official may sign and serve on the persons alleged responsible for a violation of this Ordinance a written citation that contains a notice to appear before the Tribal Council, the name and address of the person who is accused, a description of the alleged violation, the time and place where and when the person shall appear before the Tribal Council, and such other pertinent information as may be necessary.

After a hearing by the Tribal Council of the citation, the Council shall issue its order determining if a violation has occurred, and the proper remedy to be provided if any. A member of the Big Pine Paiute Tribe of the Owens Valley shall have the right to appeal an order of the Tribal Council to the General Council, provided that the appeal is in writing and filed with the Tribal Office within 15 days after the mailing of the order to the appealing individual of the Tribal Council Order. Non Tribal members do not have the right to appeal a Tribal Council Order to the General Council.

(2) Service of Citation. A civil infraction citation for a violation of this Ordinance may be served in any of the following ways:

- (A) By personal service thereof on the person determined responsible for the violation. A copy of the citation signed by the person shall suffice as proof of service.
- (B) By mailing the notice by certified mail, return receipt requested, to the person named in the citation at his or her last known address.
- (C) By posting the notice in a conspicuous place on the residence of the person named in the citation and thereafter mailing to the person by 1<sup>st</sup> class mail a copy of the citation.

(3) Alternative Remedies. At the discretion of the Tribal Council, the following remedies may be ordered:

- (A) An order to abate trespass, including injunctive relief, and for the removal from the property of the offending violator of this ordinance.

<sup>1</sup> Until a Tribal court is established, the Tribal council shall act as the Tribal Court





**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Indian Reservation*


In the event of alleged irreparable damage as presented to the Tribal Council, the Tribal Council may issue a temporary restraining order pending the final hearing by the Tribal Council on the citation, or pending appeal to the general council. The temporary restraining order shall be designed to address the issues presented to the Tribal Council as constituting irreparable damage.

- (B) Civil penalty as established by the Tribal Council; or
  - (C) Money damages for injuries/ damages suffered by the owner of the real property; or
  - (D) A combination of any or all of the above.
- (4) Tribal Immunity. Nothing in this ordinance is a waiver of the sovereign immunity of the Tribe or the Tribal Council or any official, agent or employee of the Tribe while acting in his or her official capacity. The employees and appointees of the Tribe, the members of the Tribal Council, and the personnel of the Tribal Court are cloaked with the sovereign immunity of the Tribe. No person named above shall be liable for his or her acts or failure to act under this Ordinance.
- (5) Effective Date. This Ordinance shall be effective from the date of its approval by the Tribal Council.

**CERTIFICATION**

The foregoing Ordinance was passed at a duly called meeting of the Big Pine Tribal Council held on the 5<sup>TH</sup> day of March, 2008 with a quorum present and voting 4 AYES, 0 NAYS, 0 ABSTAINING, and 0 ABSENT.

**BIG PINE TRIBAL COUNCIL:**  
**ATTEST:**

  
\_\_\_\_\_  
Tribal Secretary

4-7-09  
\_\_\_\_\_  
Date



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Indian Reservation*

**INSTRUCTIONS FOR PROCESSING CITATION NOTICES AND**  
**ISSUING OF TEMPORARY RESTRAINING ORDERS**

**TRESPASS ORDINANCE**

When an Authorized Tribal Official has determined that a violation of the Tribe's Trespass Ordinance has occurred, the Citation to be issued should be processed as follows:

1. The Citation is to be completed by the Authorized Tribal Official.
2. Determine the date for hearing of Citation before the Tribal Council and include that date in the Citation.
3. Serve a copy of the signed and filled out Citation on the named individual(s)/entity using one of the procedures set out in the Ordinance at page 2 section 2 (Service of Citation).
4. In the event that a Tribal Council hearing date is changed from the date set out in the Citation, the individual(s)/entity named in the Citation will be given adequate notice of such change of date.

In the event that a Temporary Restraining Order is requested by the Authorized Tribal Official, the Temporary Restraining Order should be processed as follows:

- (A) Make sure the Citation is completely filled out.
- (B) Review the Declaration in Support of the Application for Temporary Restraining Order to see that it is properly completed and includes the appropriate hearing date before the Tribal Council.



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Indian Reservation*

(C) Present to the Tribal Council copies of the Citation, Declaration in Support of the Application for Temporary Restraining Order and the Proposed Temporary Restraining Order that is to be filled out and signed by the Tribal Council if issued.

(D) After the Tribal Council signs the Temporary Restraining Order, have the Temporary Restraining Order served personally on the named individual(s)/entity. In the event the Citation has not already been served, then make sure the Citation is served with the Temporary Restraining Order.