

## ORDINANCE NO. 31

### PUBLIC NUISANCE ORDINANCE

STATEMENT OF PURPOSE: An Ordinance to regulate public nuisances upon trust, restricted fee, or Tribal Member owned fee land located within the City of Mount Pleasant, Michigan and within the boundaries of the Isabella Reservation of the Saginaw Chippewa Indian Tribe of Michigan.

BE IT ENACTED, by the Saginaw Chippewa Tribe as follows:

#### **Section 1. Short Title**

This Ordinance may be cited as the Public Nuisance Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

#### **Section 2. Interpretation**

This Ordinance shall be deemed as a exercise of the general police power of the Saginaw Chippewa Tribe for the protection of the public welfare, health, peace and morals of the Saginaw Chippewa Indian Tribe of Michigan and all provisions of this Ordinance will be liberally construed for the accomplishment of this purpose.

#### **Section 3. Definitions**

- (a) Public Nuisance shall mean an unauthorized condition that is obnoxious and injurious causing undue annoyance to the public at large, or a condition which endangers public safety.
- (b) Tribal Member means a member of the Saginaw Chippewa Indian Tribe of Michigan.
- (c) Isabella Indian Reservation means the Indian Reservation established by Executive Order and Treaties of 1855 and 1864 and recognized by Order of the United Sates District Court, Eastern District of Michigan dated December 17, 2010 in the case of *Saginaw Chippewa Indian Tribe, et al, v. Granholm, et al.*, Case Number 05-10296-BC.
- (d) City Limits means the jurisdictional boundaries of the City as of December 17, 2010.
- (e) City means the City of Mount Pleasant, Michigan.

- (f) Respondent means a Tribal Member who is the subject of a citation issued pursuant to this Ordinance.

**Section 4. Prohibited Conduct.**

- (a) Real property owned by a Tribal Member in fee or restricted status on the Isabella Reservation and within the City Limits shall not be maintained in a manner inconsistent with requirements under City ordinance or code including but not limited to grass length, animals, noises and abandoned refrigerators.
- (b) Tribal Members shall not engage in activities within the City Limits that cause undue annoyance to the public at large, or conditions which endanger public safety or public and private property.

**Section 5. Duties of Director of Tribal Planning Department**

The Director of Tribal Planning Department shall have the authority to do the following:

- (a) Implement this Ordinance and collect and be the repository of all fees or fines issued pursuant to this Ordinance.
- (b) Enforce the provisions and to carry out the duties provided by this Ordinance.
- (c) Develop or promulgate such rules and procedures as are necessary to implement this Ordinance. The Director of the Tribal Planning Department may promulgate rules and procedures that are approved in writing by the Tribal Administrator or the Assistant Tribal Administrator. Promulgated rules and procedures will become valid and binding laws of the Tribe upon approval of the Tribal Council and shall be filed with the Tribal Clerk.
- (d) Undertake any other activity that is reasonable and necessary to implement this Ordinance.

**Section 6. Penalties for Violations.**

- (a) This Ordinance shall be administered and enforced by the Saginaw Chippewa Tribal Planning Department.
- (b) Enforcement of this Ordinance may be sought by filing of a written complaint to the Saginaw Chippewa Tribal Planning Department by an official of the City or by a Tribal Member.
- (c) The Tribal Planning Department shall execute and enforce the provisions of this

Ordinance in response to a properly filed complaint as provided at subsection 6(b) of this Ordinance or on its own independent authority.

- (d) Upon receipt of a valid complaint, or on its own independent authority, the Tribal Planning Department may in its discretion, issue a citation to the Tribal Member(s) who are the subject of the complaint.
- (e) A citation shall be made on a form approved by the Planning Department and shall provide, at a minimum, the nature of the violation and whatever action necessary by the Respondent to abate or correct the violation.
- (f) Citations shall be served by personal service or by certified mail and shall be deemed served upon receipt. Personal service shall be effective upon receipt by the Respondent or by posting such citation in a conspicuous location at the residence of the Respondent.
- (g) Respondents shall immediately comply with a citation issued absent a showing of good cause to the Tribal Planning Department .
- (h) A citation shall include a civil assessment against the Respondent in the amount of \$200.00 for each violation.

#### **Section 7. Violations, Jurisdiction**

- (a) The Saginaw Chippewa Community Court shall have exclusive jurisdiction over all causes of action under this ordinance.
- (b) The Director of the Tribal Planning Department or other designee of the Planning Department approved by Council, shall have the authority to bring actions in the name of the Saginaw Chippewa Indian Tribe in the Saginaw Chippewa Indian Tribal Court for the enforcement of the provisions of this ordinance. The Director of Tribal Planning Department may seek any appropriate civil remedy in such actions. The Tribal Court shall have the authority to enforce the Ordinance and the requirements of any citation issued pursuant to this Ordinance.
- (c) A lawsuit filed pursuant to this section shall comply with procedures of the Saginaw Chippewa Civil Code.
- (d) There shall be no private cause of action or third party action to enforce the provisions of this Ordinance or its implementing regulations.

#### **Section 8. Severability of Provisions.**

If any provision under this Ordinance is later found to be unconstitutional under the Tribe's Constitution or the United States Constitution it shall be considered null and void, but the rest of the provisions in this Ordinance shall remain in effect.

### **Section 9 . Sovereign Immunity**

Nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or its Director of Tribal Planning Department or any subordinate government unit or official except to the extent such immunity is explicitly waived in such ordinance or by resolution of the Tribal Council. No enforcement action taken by the Director of the Planning Department or Council designee shall be construed as a waiver of sovereign immunity. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity with regard to any counterclaim or similar assertion relating to an enforcement action of the Director of the Planning Department.

### **Section 10. Effective Date**

This Ordinance shall become effective immediately.

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#### Legislative History

Enacted by Resolution 11-083 approved on April 27, 2011