

Ordinance # 2-11
Adopted Apr 25, 1991

- EXCLUSION CODE

Sec. 1 Grounds for Exclusion.

Any person may be excluded from the Chitimacha Reservation for:

(a) Conduct which substantially threatens the lives or physical safety of residents of the Reservation.

(b) Conduct which if committed by a member of the Chitimacha Tribe would be a crime under the laws of the Chitimacha Tribe.

(c) Conduct which is grounds for exclusion from the Reservation under any other ordinance or law of the Chitimacha Tribe.

In the sole discretion of the Council, a person who is subject to this ordinance may be excluded for conduct which was the basis of a prior exclusion order, whether or not that prior order has expired or been revoked.

Sec. 2. Initiation of Exclusion Proceedings.

(a) Exclusion proceedings shall be initiated by written charges of specific conduct justifying exclusion made by a member of the Chitimacha Tribal Council, and adopted by a majority vote of the Council at a meeting at which a quorum is present. Such

charges shall also include the text of the proposed exclusion order.

(b) In an emergency situation and for good cause shown, the Council may, at the time it adopts charges, enact a temporary exclusion order, effective upon adoption, against the person or persons charged. Such temporary exclusion order shall be effective for 30 days or until the date of the hearing pursuant to Section 4, whichever comes first. Notwithstanding any other provision, such a temporary exclusion order shall not be construed to prevent the person or persons excluded from appearing at the hearing on the charges against them pursuant to Section 4, or at any Tribal Court hearings at which the excluded person or persons are otherwise required to appear.

Sec. 3 Notices.

Written notice of exclusion charges, including the complete text of the charges adopted by the Council, shall be served on the person or persons against whom the charges are made by personal delivery or by certified or registered mail, return receipt requested. Such notice shall be accompanied by a copy of this ordinance and shall advise the person or persons of the date of the Tribal Council hearing on the charges. Such notice shall be delivered not less than 10 days before the date of the hearing.

Sec. 4. Hearing on Charges.

(a) Not less than 10 days after service of notice of charges pursuant to Section 3, the Council, at a meeting at which a quorum is present, shall hold a public hearing on the charges. The charges must be proven by sworn testimony of witnesses and reliable documentary evidence. The Council member bringing the charges, or such other person as designated by the Council, shall present the evidence for exclusion. The person or persons charged shall be given the opportunity to answer the charges by written or oral presentation before the Council, and shall have the right to cross-examine witnesses, to present witnesses or evidence in defense against the charges and to be represented by counsel at their own expense.

(b) Immediately after the hearing, the Council may adopt the exclusion order proposed in the charges by a majority vote. If the Council does not adopt the exclusion order, the charges shall be dropped. In either case the decision of the Council shall be final and unreviewable.

Sec. 5 Content of Exclusion Order.

Every exclusion order proposed as part of charges pursuant to Section 2, or adopted pursuant to Section 4(b) shall:

(a) Specifically identify by name, and such other information necessary to avoid any ambiguity, the person or persons to be excluded from the Reservation.

(b) Include, either directly or by reference to the charges, a description of the specific conduct for which exclusion is ordered.

(c) State the exact date when the exclusion becomes effective.

(d) State the exact date, which shall not be more than five years after the effective date, when the exclusion expires.

(e) State that the excluded person may be allowed or required to appear in Tribal Court in any proceedings within the jurisdiction of Tribal Court, notwithstanding the exclusion order.

Sec. 6. Revocation of Exclusion Orders.

(a) A person excluded from the Reservation may, at any time after entry of the exclusion order, petition the Council to revoke the exclusion order. The petition shall be made in writing and shall set forth in detail the grounds upon which revocation is sought.

(b) Except as provided in subsection (c), the Council shall afford a person petitioning for revocation of an exclusion order a hearing such as that provided in Section 4. Notwithstanding the outstanding exclusion order, the petitioner may enter the Reservation to appear at the hearing, under procedures set forth

in Section 7. At the hearing the burden shall be on the petitioner to show that revocation is appropriate, but revocation shall be within the sole discretion of the Council.

(c) A hearing need not be afforded on a petition for revocation filed within six months of the effective date of the exclusion order or within one year of a hearing on a previous petition for revocation filed by the same person.

(d) Whether or not a petition for revocation is filed or a hearing is held, the Council may revoke any exclusion order by Resolution at any time.

Sec. 7. Procedures for entering Reservation for exclusion, revocation or Tribal Court hearings.

Any person excluded from the Reservation under this ordinance, who is entitled under this ordinance to appear at a Tribal Council hearing on exclusion or revocation, or wishes to or is required to appear in Tribal Court in any proceeding, may enter the Reservation only in compliance with this section. The person excluded must provide the Tribal Chairman with seven (7) days notice, in writing, of the date, time and purpose for seeking entry to the Reservation. Upon receipt of such a notice, the Chairman shall determine if the request by the excluded person complies with this ordinance. If not, the Chairman shall inform the excluded person that his request to enter the Reservation has been denied. If the request is in compliance

with this ordinance, the Chairman shall notify the excluded person that he may enter the Reservation, but only for the purpose of attending the specified Tribal Council or Tribal Court hearing. In such event, the Chairman shall arrange for a tribal police escort of the excluded person from the boundary of the Reservation to the designated hearing, and, immediately after the designated hearing, to the Reservation boundary. For purposes of this section, the term "Chairman" shall mean the Tribal Chairman or his designee.

Sec. 8. Effective Date and Transition Provisions.

(a) This ordinance shall be effective upon enactment.

(b) Except as provided in subsection (c), this ordinance shall not apply to exclusion orders adopted prior to its effective date. Such orders shall continue in effect in accordance with their terms.

(c) Section 6 of this ordinance shall be applicable to all exclusion orders whether adopted before or after the effective date of this ordinance.