

**BISHOP PAIUTE TRIBE**  
**TITLE 7 – HEALTH & SAFETY**  
**CHAPTER 7.1 – ORDERS OF PROTECTION CODE**

**(ENACTED BY THE BISHOP PAIUTE TRIBAL COUNCIL APRIL 23, 2009, AS  
TRIBAL PUBLIC SAFETY ORDINANCE NO. 2009-01;  
RENAMED AND AMENDED, EFFECTIVE SEPTEMBER 14, 2023)**

**SECTION 1**  
**FINDINGS; DECLARATIONS OF POLICY**

**101. Tribal Council Findings.** The Bishop Tribal Council (the “Tribal Council”) is the federally recognized governing body for the Bishop Paiute Tribe (“Tribe”). After careful review, which has included input from the Tribal community, the Tribal Council has determined that judicial remedies are necessary to protect the Tribal community and prevent civil harassment, domestic violence, and elder abuse against Tribal community members.

It is the finding of the Tribal Council that there is a continuing need for judicial procedures by which the Tribal Court may issue appropriate protection orders to address and prevent civil harassment, domestic violence, and elder abuse.

**102. Declarations of Policy.** It is the policy of this Code to promote the general health, safety, and welfare of the Bishop Paiute Tribal community by authorizing through this code the Bishop Tribal Court to issue orders of protection for the purposes of preventing civil harassment, domestic violence, and elder abuse.

It is also the policy of this Code to provide for the full faith and credit of other state, tribal, or territorial courts that have issued valid protection orders and for the enforcement by the Bishop Paiute Tribe of such valid protective orders.

**SECTION 2**  
**DEFINITIONS**

**201. General Definitions**

“Code” means this Bishop Paiute Orders of Protection Code. This term is synonymous with prior usages of the word “ordinance” in Bishop Paiute Tribal law.

“Continuance” means a change in the date of a scheduled hearing to a later date.

“Court” means the Bishop Paiute Tribal Court, unless otherwise stated.

“Domestic Relationship” means a relationship between petitioner and respondent who is: a current or former spouse; currently or formerly lived together; are or were in a romantic or sexual relationship; have a child in common; or one party is pregnant by the other. A domestic relationship also includes: the relationship between a child who lives or lived with respondent and

is related by blood or court order to petitioner; a person to whom the respondent is related by blood or court order (parent, child, brother, sister, aunt, uncle, first cousin, grand and great grandparents) or by marriage (in-laws, stepfamily).

“Elder” means any Bishop Paiute Tribal member regardless of domicile, any other member of an Indian tribe who is living within the exterior boundaries of the Bishop Paiute Tribal Reservation, or any non-Indian spouse, widow, or widower of the previously mentioned persons, who is fifty-five (55) years of age or older.,

“Ex parte” for purposes of this Code means an order issued by the Court before the respondent is served with the filed petition, or respondent has not had a chance to respond to the allegations in the petition.

“Incapacitated” means an adult or minor who has been determined, or is in the process of being determined, by a court or another individual or entity with authority to make such a determination, to be unable to meet essential requirements for physical health, safety, or self-care, or unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision-making, so that the person needs another to petition on their behalf in protection order proceedings.

“Issuing court” means a state, tribal, or territorial court that issues a temporary or permanent protection order against a person.

“Permanent protection order” means a final protection order issued after a hearing where both parties were given notice and opportunity to be heard sufficient to protect due process rights, or the respondent failed to appear at the hearing having had notice. It lasts for a period of time as set by the Court and is not necessarily permanent. A permanent protection order is also known as an “order after hearing.”

“Petitioner” means the person asking for a protection order.

“Protected person” means any specifically designated person who the court has determined should be protected by a protection order.

“Protection order,” also known as "protective order" or “restraining order,” includes any injunction or any other order issued by a civil or criminal court of any state, Indian tribe, or territory for the purpose of preventing violent or threatening acts, abuse, harassment, or sexual violence against, or contact or communication with or physical proximity to, another person, including any emergency, temporary, or final order issued by a civil or criminal court of any state, Indian tribe, or territory.

“Respondent” means the person who has allegedly committed the acts of civil harassment, domestic violence, or elder abuse that are alleged by the petitioner.

"State" includes any state of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

“Temporary protection order” means a protection order enforced until the hearing to determine if a permanent protection order should be issued.

"Tribal court" refers to a tribal court authorized and established by a federally recognized Indian tribe.

**202. Definition of Civil Harassment.** “Civil Harassment” means unlawful violence, a credible threat of violence, or a knowing and willful series of acts over any period of time that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The series of acts must be that which would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. This includes theft of another’s property, vandalism of another’s property, threats to harm another person, and online harassment conducted over digital devices that includes but is not limited to making public false allegations, impersonating the person, posting the person’s personal information online, and encouraging others to harass the person. Online harassment occurs where the communication originates, where the communication is received, or where the harm occurs.

**203. Definition of Abuse**

- a. “Physical abuse.” Any intentional infliction of physical harm, including the denial of needed medical care, the forced use of alcohol or controlled substances, or confinement or other improper restriction or interference with freedom of movement. Physical abuse does not include acts of self-defense or actions taken in defense of a minor child or a person unable to defend themselves due to age or incapacity.
- b. “Psychological and/or emotional abuse.” Any intentional use of force, coercion, threats, intimidation, humiliation, confinement, harassment, or disturbing the peace. The abuse can occur through acts, words, or gestures. Examples include, but are not limited to constant criticism, name calling, diminishing one’s abilities (e.g. taking away walking aids), threatening physical harm to another family or household member, threatening physical harm to oneself, threatening physical harm to another family or household member’s children, family, or friends, destruction of property, harming or threatening to harm pets, forcing isolation from family, friends, pets, school, or work, disseminating information from a confidential source such as a personal journal or digital platform without permission, publishing private information or negative comments about the protected person or their family in public or online, sharing personal information with family or an employer, or otherwise engaging in annoying or harassing behaviors.
- c. “Sexual abuse.” Attempting or causing an individual to engage involuntarily in sexual activity without their knowledge and legal consent or by force, coercion, threat, intimidation, humiliation, confinement, or administering drugs or alcohol.
- d. “Economic abuse.” Making or attempting to make an individual financially dependent by maintaining control over joint financial resources, maintaining exclusive control over property over and vehicles that are jointly owned with a spouse under the law, withholding access to money, or misusing an individual’s separate financial resources.

**203. Definition of Domestic Violence.** “Domestic violence” is abuse perpetrated against someone who has a domestic relationship with the respondent.

**204. Definition of Elder Abuse.** “Elder Abuse” is abuse of any elder, including exploitation or neglect:

- a. “Exploitation.” For the purpose of elder abuse means the unauthorized or improper use of an elder’s person or resources, or the failure to use an elder’s resources for the elder’s benefit or according to the elder’s wishes. Exploitation includes but is not limited to (1) any unauthorized use or occupation of the elder’s residence, property, utility services, food, or money, (2) any use of an elder’s resources that exceeds the authorization the elder has given, and (3) unreasonable imposition on the elder’s time or resources.
- b. “Neglect.” For the purpose of elder abuse means the failure of a caregiver or fiduciary to provide for the basic needs of an elder by not supplying adequate resources, services, or supervision necessary to maintain the elder’s physical and mental health or by interfering with the delivery of such resources or services. Such resources and services include but are not limited to shelter, food, clothing, medication, medical services, and personal care such as assistance with hygiene and dressing.

The same standards, definition and procedures outlined in this Code for elder abuse shall apply to individuals who have been determined, or are in the process of being determined, by a court or another individual or entity with authority to make such a determination, to be incapacitated.

### **SECTION 3 JURISDICTION**

**301. Jurisdiction.** The Bishop Paiute Tribal Court has the inherent civil authority to issue protection orders in cases of civil harassment, domestic violence, and elder abuse when either the petitioner or the respondent, or both, reside within the exterior boundaries of the Bishop Paiute Tribal Reservation, when the alleged events took place within the exterior boundaries of the Bishop Paiute Tribal Reservation, or when the alleged events otherwise arose within the exterior boundaries of the Bishop Paiute Tribal Reservation.

The Court may construe its authority liberally to exercise maximum jurisdiction consistent with applicable Tribal, state, and federal law.

### **SECTION 4 PROCEDURE**

**401. Who May Petition.**

- a. Any person residing within the exterior boundaries of the Bishop Paiute Tribal Reservation, any person seeking protection from someone residing within the exterior boundaries of the Bishop Paiute Tribal Reservation, any person seeking protection from conduct occurring within the exterior boundaries of the Bishop Paiute Tribal Reservation, or any person otherwise seeking protection from events arising within the Bishop Paiute Tribal Reservation may file a petition for a protection order under this Code.
- b. Any person including a family member, household member, Indian custodian, guardian, legal representative, physician, or any institution of the Bishop Paiute Tribe including Tribal Council, Tribal Administration, Tribal Social Services, or Toiyabe Indian Health Project, Inc. may file a petition for a protection order on behalf of a minor child, adult, or

elder who claims to need protection, is in the requesting party's care, and either consents to be represented, or is found by a court, or is in the process of being found by a court or another individual or entity with authority to make such a determination, to be incapacitated.

- c. Petitions for orders of protection involving domestic violence require a finding by the court that a domestic relationship exists for an order of protection to be issued.

**402. What May the Petitioner Request.** In addition to the standard no contact and stay away orders the court will issue, the petitioner may request, or the court may order, respondent to:

- a. Pay petitioner's reasonable attorney or advocate fees associated with the case;
- b. Pay restitution for damaged or stolen property;
- c. Pay restitution for any of a protected party's out-of-pocket medical or counseling bills that were the result of the respondent's actions;
- d. Pay restitution for any of a protected party's lost wages that were the result of the respondent's actions;
- e. Require the respondent to complete coursework such as in anger management or domestic violence and to show proof of compliance to the Court;
- f. Require the respondent to complete a substance abuse assessment and any recommended treatment and to show proof of compliance to the Court;
- g. Require the respondent to complete community service and to show proof of compliance to the Court;
- h. Any other relief the Court deems necessary just and proper, including but not limited to any relief requested by the petitioner.

**403. Duration of an Order After Hearing.** The duration of an Order of Protection is up to the discretion of the Court but shall not remain in effect for a period exceeding five (5) years. Either petitioner or respondent may petition the court to modify, extend or terminate an Order of Protection at any time.

**404. Civil Sanctions.** The Bishop Paiute Tribal Court as the enforcing Court determines how protection orders are enforced and determines the sanctions for violations of each order under Bishop Paiute Tribal law. The term Tribal law includes not only codes and written documentation, but also Tribal custom and practice. If the Court determines that the respondent has willfully violated any protection order, then the Court may impose civil sanctions. These sanctions may include but are not limited to the following:

- a. Suspension of selective or all Tribal services,
- b. Suspension of eligibility for participation in Tribal programs, or
- c. Suspension of eligibility to receive Tribal per capita payments or restrictions on the use of per capita payments as directed by the Court to satisfy any and all outstanding orders or judgments of the Court.

Once a sanctioned individual has complied with the Court's orders, the Court will order that any or all of the above remedies as set out shall no longer be in effect and the individual will be reinstated if then eligible for Tribal services, Tribal programs, or Tribal per capita payments.

**404. Exceptions.** The Court may list certain reasonable exceptions to stay away or no contact provisions of any protection order.

## **SECTION 5 FOREIGN ORDERS**

**501. Full Faith and Credit for Foreign Protective Orders.** A valid protection order issued by a civil or criminal court of any state, Indian tribe or territory shall be given full faith and credit by the Bishop Paiute Tribal Court, and enforced as if it were the order of the Bishop Paiute Tribal Court if the issuing jurisdiction gives full faith and credit to the orders of the Bishop Paiute Tribal Court

**502. Comity.** As a matter of comity, the Bishop Paiute Tribal Court may recognize and has the discretion to enforce a valid protection order issued by a civil or criminal court of any state, Indian tribe or territory even if the issuing jurisdiction does not recognize and enforce the orders of the Bishop Paiute Tribal Courts.

**503. Requirements.** A valid protective order issued by a civil or criminal court of any state, Indian tribe, or territory must meet the following conditions:

- a. The issuing court has jurisdiction over the parties and matter,
- b. The order is currently in effect and identifies the protected party and the respondent,
- c. The restrained party was given reasonable notice and opportunity to be heard sufficient to protect his or her due process rights, and
- d. If the order is ex parte, notice and opportunity to be heard must have been provided within the time required by the issuing state or tribal law, within a reasonable time after the order is issued, and sufficient to protect the restrained party's due process rights.

Absence of any of the above criteria is an affirmative defense to an enforcement action under this Code.

## **SECTION 6 AMENDMENTS AND EFFECTIVE DATE**

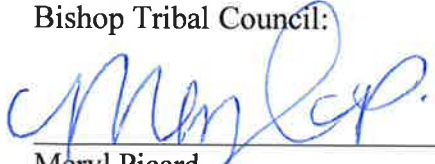
**601. Amendments.** This Code and the procedures/court rules promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.

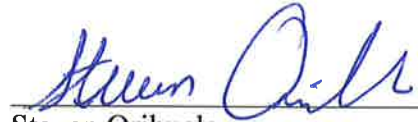
**602. Effective date.** This Code shall be effective upon the date of its approval by the Tribal Council by way of certification.

**CERTIFICATION**

The foregoing code was passed at a duly called meeting of the Bishop Paiute Tribal Council held on the 14<sup>th</sup> day September 2023, with a quorum present and voting: 4 Ayes, 0 Nays, 0 Abstaining, and 0 Absent, and the Chairwoman not voting.

Bishop Tribal Council:

  
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Meryl Picard,  
Tribal Council Chairwoman  
Date: 9-14-2023

  
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Steven Orihuela,  
Tribal Council Secretary  
Date: 9-14-2023