



SAN PASQUAL BAND OF MISSION INDIANS
SAN PASQUAL RESERVATION

SAN PASQUAL BAND OF MISSION INDIANS

PEACE AND SECURITY ORDINANCE
SP 101115-01



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San Pasqual Band of Mission Indians

Peace and Security Ordinance

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CHAPTER 1. .PURPOSE, CONSTRUCTION, AND JURISDICTION

Section 1.01 Purpose and Policy

The peace and security of all tribal members, residents, guests and visitors to the San Pasqual Band of Mission Indians Reservation shall be preserved and protected by the San Pasqual Band of Mission Indians ("Tribe"). It is the policy of the Tribe that tribal members, residents, guests and visitors on the reservation are entitled to the peaceful and tranquil pursuit of their lifestyles. It is the further policy of the Tribe that Reservation residents are entitled to security against harassment, vandalism, disturbing the peace and other antisocial acts, both in public and in private. The peace and security of the Tribe is promoted through our shared respect for each other, and for our land and natural resources. Each generation shares responsibility for protecting our land, water, and air to ensure their continued existence for the benefit of our future generations. Our Tribe, by working together, strives to promote harmony among our residents, tribal members, guests and visitors.

Public Law 280 did not divest the Tribe of its inherent sovereign authority to establish its own laws and enforce them. The adoption and enforcement of a Peace and Security Ordinance is necessary to maintain peace and order on the Reservation. The adoption of this Ordinance promotes the health and safety of the members of the Tribe is in the best interest of the members of the Tribe and furthers the Tribe's sovereignty and administration of justice.

Section 1.02 Liberal Construction

This Ordinance shall be liberally construed to give full effect to the purposes for which it was enacted. Furthermore, this Ordinance shall be interpreted and construed to:

- Preserve the peace, harmony, safety, health and general welfare of the people of the Tribe and those permitted to enter or reside on the Reservation;
- Ensure peace and order on the Reservation and lands of the Tribe;
- Promote the welfare of the Tribe and its members;
- Safeguard individual rights and community standards;
- Secure rights and powers, which are inherent in the Tribe's sovereign status;
- Exert jurisdiction over all matters essential to the Tribe's self-determination and self-governance;
- Treat all parties fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act;
- Resolve disputes fairly and efficiently; and
- Provide an orderly procedure for resolving conflicts which reflects the prevailing community standards, and which affords all affected persons a fair, prompt, and impartial hearing.

Section 1.03 Jurisdiction

The jurisdiction of the Tribe shall extend to the lands now or hereafter comprising the

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San Pasqual Reservation located in San Diego County, California. and to all other tribally-owned lands over which the Tribe may lawfully exercise jurisdiction.

The San Pasqual Tribal Court shall have jurisdiction over all violations under this Ordinance. This Ordinance will be applicable to all persons and trust lands and is limited only by the Tribe's Constitution and By-Laws, and applicable federal law. As a federalized security department, the San Pasqual Public Safety Department exercises criminal and civil jurisdiction over tribal members, non-member Indians, and non-Indians.

Section 1.04 Tribe's Regulations

The General Council of the Tribe shall approve such regulations as it deems proper and necessary to carry out the intent of this Ordinance with respect to preserving and maintaining the peace and security of Reservation residents. Such regulations may supersede or supplement any existing regulations, and include any provisions which the Business Committee deems necessary to carry out the policies and procedures of this Ordinance.

Section 1.05 Prior Inconsistent Codes and Ordinances Repealed

Any and all relevant peace and security codes and ordinances adopted prior to or which conflicts in any way with the provisions of this Ordinance are hereby repealed.

CHAPTER 2. DEFINITIONS

"Alter" means to change, modify, or vary in some degree; to change some of the elements, ingredients or details without substituting an entirely new thing or destroying the identity of the thing affected.

"Bodily Injury" means; cut, abrasion, bruise, burn, physical pain; or causing illness, impairment of a function of a bodily member, organ, or mental facility; or any other injury to the body, no matter how temporary.

"Business Committee" is the five (5) member committee established under Article IV of the Tribe's Constitution and By-Laws

"Controlled Substance" means any drug or other substance, except marijuana, under the provisions of Chapter 13, Title 21, Section 802,

"Controlled Substance" of the United States Code.

"Damage" means loss, injury, or deterioration to property causing it to decrease in strength, value, amount or quality.

"Dangerous Drug" means any drug, except marijuana, that is included in Chapter 13, Title 21, Section 802, "Dangerous Drug" schedules I, II, III, IV, or V of the United States Code. This term includes a device or a drug that bears or is required to bear the legend;

Caution: Federal law prohibits dispensing without a prescription;

OR

Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

“Dangerous Weapon” means any firearm, or other weapon, device, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is known to be capable of producing death or serious bodily injury (for example, clubs, brass knuckles).

“Destroy” means to ruin the structure, organic existence or condition of a thing or property, to demolish to injure or mutilate beyond possibility of use.

“Deface” means damage to monuments, buildings or other structures by changing the physical appearance.

“Drug Paraphernalia” means any equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or dangerous or narcotic drug.

“Elder” means a person over the age of 55.

“Extended Family Member” means grandmother, grandfather, aunt, uncle, brother, sister, brother-in-law, sister-in-law, step-mother, step-father, step-brother, step-sister and step-child.

“Financial Loss” means a loss of money or of something by which money or of value may be acquired.

“General Council” means the governing body of the Tribe, comprised of all adult, voting members of the Tribe.

“Guardian” means a person other than a parent, who is legally responsible for a juvenile.

“Highway” means any highway or road, owned or managed by a public agency, and not otherwise owned or maintained by the San Pasqual Band Mission Indians.

“Infraction” means a violation of tribal law as set forth in this Ordinance.

“Juvenile” means any person under the age of eighteen (18.)

“Marijuana” means all parts of the plant Cannabis Sativa L. whether growing or not, under the provision of Chapter 13, Title 21, Section 802,

“Marijuana” of the United States Code.

“Motor Vehicle” or “Vehicle” includes automobiles, motorcycles, ATVs, trucks, and all other forms of motorized transportation.

“Narcotic Drug” means any drug, except Marijuana, under the provision of Chapter 13, Title 21, Section 802, “Narcotic Drug” of the United States Code.

"Non-highway Vehicles," "off-road vehicles" or "OHV" means any; non-street licensed vehicle used for recreational purposes on non-highway, roads, streets, trails or a variety of other natural terrain. Such vehicles include, but are not limited to, all-terrain vehicles, four-wheel drive vehicles, dune buggies, trail bikes and motorcycles not otherwise licensed as operational on highways of the State of California.

“Non-Highway Road” means any highway or road, owned or managed by a public agency, or any private highway, road or street within the exterior boundaries of the San Pasqual Band of Indians Reservation.

“Non-member” means a person who is not currently enrolled as a member of the San Pasqual Band of Mission Indians.

“Owner” means a person holding title to real or personal property. In the case of real property, Owner shall include a lessee or assignee of property under a valid lease or assignment from the Tribe. In cases of uncertainty, Owner shall mean the Tribe.

“Parent” means the natural or adoptive mother or father of a juvenile.

"Parking Areas" means any public or private parking area located inside the exterior boundaries of the San Pasqual Band of Indians Reservation.

“Private Property” means Tribal Property leased from the Tribe (housing) and Tribal Property issued to tribal members pursuant the Tribe’s Assignment Ordinance (assignments).

“Property” means; 1. Real property such as land or structures and building affixed to land and includes both tribal and private; 2. Personal property which is anything tangible or that can be severed from real property.

“Public Place” means any tribal building, facility, tribal business establishment, roadway, street, lands, or any other place in which the general public has access to utilize for lawful purposes.

“Public Safety Officer” means a person designated by the Tribe to enforce this Ordinance and to act as a law enforcement officer for the Tribe. Public Safety Office is synonymous with Tribal Police Officer.

“Recklessly” means a person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him or her.

“Reservation” means all trust lands within the exterior boundaries of the San Pasqual Reservation.

“Resident” means any member, descendant or renter living within the Reservation boundaries.
(Section Added)

“Serious Bodily Injury” means; Bodily Injury, which involves; a substantial risk of death; extreme physical pain or disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental facility.

“Street” or “Alley” means any street within the exterior boundaries of the San Pasqual Band of Indians Reservation owned or maintained by the San Pasqual Band of Indians Reservations.

“Tribal Court” means the judiciary branch of the Tribe as set forth and provided for under the Tribe’s Judiciary Ordinance.

“Tribal Member” means a person who is enrolled as a member of the San Pasqual Band of Mission Indians and such enrollment is recorded in Tribal records.

“Tribal Property” as used in this Ordinance means all real property held by the United States government in trust for the Tribe, and all Tribal structures, buildings, facilities, dwellings and all property owned by the Tribe.

CHAPTER 3. VIOLATIONS

Section 3.01 Infractions Against Property

(A) Malicious Mischief

A person commits the Infraction of Malicious Mischief if he or she, without the effective consent of the owner:

- (1) Damages or destroys the property of the owner;
- (2) Tampers with property of the owner and causes financial loss or substantial inconvenience to the owner or a third person;
- (3) Makes markings, including, inscriptions, slogans, drawings, or painting on the Property of the owner;
- (4) Alters, defaces, or damages in any way tribal property which may include a monument, structure or facility, place of worship or burial or any other property respected by the community of the Tribe; or aids, assists, commands, or counsels another to commit Malicious Mischief.

(B) Trespass

A person commits the Infraction of Trespass if he or she enters or remains on tribal or private property of another without consent and; had notice that the entry was forbidden; or was ordered to depart after entry and failed to do so; or has been excluded from the Reservation or specific location(s) on the Reservation by the Tribe, or the Tribal Court.

Notice or an order may be given by; written or verbal communication given to the intruder by a Public Safety Officer, the owner of the property or a person authorized to act on behalf of the owner.

Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or fences, barricades or other devices obviously designed to enclose the property and to exclude all potential intruders.

Written notice of exclusion issued by the Tribe, Tribal Court or Business Committee; or written Tribal, State or Federal protective order(s) or restraining order(s) preventing a person from entering the Reservation or buildings within the Reservation.

(C) Reckless Damage or Destruction

A person commits the Infraction of Reckless Damage or Destruction if, without the consent of the owner, he or she recklessly damages or destroys property of the owner.

(D) Arson

A person commits the Infraction of Arson when he or she intentionally sets fire to, burns, causes to be burned, or aids, counsels, or assists in the burning of any real or personal property, including crops or trees on the Reservation except for cultural and traditional activities.

Section 3.02 Infractions Against the Peace

(A) Disorderly Conduct

A person commits the Infraction of Disorderly Conduct if he or she:

- (1) Fights with another person within the boundaries of the Reservation;
- (2) Not being lawfully authorized to do so, displays a dangerous weapon in a manner calculated to alarm;
- (3) Abuses or threatens a person in an obviously offensive manner;
- (4) Drinks an alcoholic beverage on any tribal street, alley or sidewalk, or on any other Tribal Property, or upon Private Property that he or she has no right to occupy;

(5) Engages in lewd behavior and is reckless about whether another person is present who will be alarmed by his or her act; or

(6) Uses abusive, indecent, profane, or vulgar language in a tribal building or on Tribal Property, and the language by its very utterance tends to incite a breach of the peace.

(B) Excessive Noise

(1) No person shall make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise or any noise that either annoys, disturbs, injures, creates a nuisance or endangers the comfort, repose, health, peace or safety of others within the exterior boundaries San Pasqual Reservation. The following acts, among others, are declared to be loud, disturbing, injurious, and unnecessary and unlawful noises in violation of this section, but this list shall not be deemed to be exclusive:

(a) Horns and signal devices [between 10:00 P.M. and 7:00 A.M.] The sounding of any horn or signal device on any automobile, motorcycle, bus, train, or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or if in motion only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; and the creation by means of any signal device for any unreasonable or unnecessary period of time.

(b) Radio, phonograph, musical instruments [between 10:00 P.M. and 7:00 A. M.]. The playing of any radio, phonograph, television set, amplified or unamplified musical instruments, loudspeaker, tape recorder, or other electronic sound producing devices in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence or of any persons in the vicinity. The operation of such set, instrument, phonograph, machine, or device in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located shall be prima facie evidence of a violation of this section.

(c) Shouting and whistling. Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets between the hours of 10:00 P.M. and 7:00 A.M. or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, care facility, hotel, or other type of residence or in any office or of persons in the vicinity.

(d) Hawking. The hawking of goods, merchandise, or newspapers on the public streets between the hours of 10:00 P.M. and 7:00 A.M. in a loud or boisterous manner.

(e) Whistle or siren. The blowing of any whistle or siren between the hours of 10:00 P.M. and 7:00 A.M., except to give notice of the time to begin or stop work or as a warning of fire or danger.

(f) Engine noise. Between the hours of 10:00 P.M. and 7:00 A.M. excessive loud

noise above 100 decibels resulting from an internal combustion engine which lacks a proper working muffler or other device which effectively prevents loud or explosive noises there from.

(g) Construction noises. The erection including excavation, demolition, alteration, or repair of any building, and the excavation of streets and highways on Sundays and other days, except between the hours of 7:00 A.M. and 8:00 P.M.; unless, a permit therefore is first obtained from the Business Committee.

(h) Handling merchandise. The creation of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers between the hours of 10:00 P.M. and 7:00 A.M.

(i) Devices to attract attention. The use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose between the hours of 10:00 P.M. and 7:00 A.M.

(2) None of the terms or prohibitions of subsection 1(a) of this section shall apply or be enforced against the following;

(a) Emergency vehicles. Any police or fire vehicle or any ambulance while engaged upon necessary emergency business.

(b) Highway and utility maintenance and construction. Necessary excavations in or repairs of bridges, streets, or highways or any public utility installation by or on behalf of the San Pasqual Tribe or any public utility or any agency of the state during the night or on Sunday when the public safety, welfare, and convenience necessitates the performance of the work at such time.

(c) Public addresses. The reasonable use of stationary amplifiers or loudspeakers for public addresses which are noncommercial in character.

(d) Other exceptions. All other temporary noises permitted by law or culture and by license or permit of the San Pasqual Tribe are excepted.

(e) Cultural events. Indian tribe's cultural, social, religious, or community activities, such as pow-wows, ceremonies, gatherings, Peon Games, parades, and traditional dances.

(C) Loitering and Curfew

(1) A person commits the Infraction of Loitering if he or she remains on Tribal Property without purpose, after notification by a Public Safety Officer to leave the area.

(2) It will be a violation of this Ordinance for any Juvenile to loiter about any public place either on foot or to ride in any vehicle without a destination, within the boundaries of the San Pasqual Reservation on a week-day (Sunday-Thursday), from 10:00 PM through 6:00 AM and weekends; (Friday-Saturday), from 12:00 Midnight through 6:00 AM unless:

(a) The juvenile is accompanied by a parent or guardian or other adult person having legal custody of such juvenile.

(b) The juvenile is on an emergency errand, specific business or activity directed for, or permitted by his/her parent, guardian, or other adult person having legal custody of the juvenile.

(c) The presence of such juvenile is required by legitimate employment or occupation, trade, and or profession.

(3) It shall be a violation of this Ordinance for any person having charge of any public place to knowingly permit, tolerate, or allow the presence of any juvenile between the hours set forth in this Ordinance.

(4) It shall be a violation of this Ordinance for the parent, guardian, or other adult person having legal custody or control of any juvenile to allow, or by inefficient control permit any juvenile to be on the streets, roads, walkways, parking lots, in or about any public place on the Reservation between the Curfew hours set forth in accordance with this Ordinance. Exceptions are as follows:

(a) A juvenile is accompanied by his/her parent, guardian, or other person having legal custody of the juvenile.

(b) A juvenile is on an emergency errand or specific business or activity directed by his/her parent, guardian, or adult having legal custody of the juvenile.

(c) The parent, guardian, or adult person having legal custody of the juvenile has made a missing person report to the applicable law enforcement agency.

(5) Cultural Events or other special events and functions sponsored by the Tribe, its Departments and Programs, a Church, School, Club or other Organization whose events and functions extend past the curfew hours set forth in this Ordinance shall be exempt.

(a) Provided, that the juvenile(s) who attends said events/functions shall be required to be at the home of the person having care, custody, and control of said juvenile within (1/2) hour after such event or function has ended.

Section 3.03 Infractions Against the Tribal Government

(A) Interfering with Lawful Detention or Resisting Detention

(1) A person commits the Infraction of Interfering with Lawful Detention or Resisting Detention if by force, violence or other means, he or she:

(a) Interferes, obstructs or resists any tribal official, Public Safety Officer or other law enforcement officer in the performance of their official duties;

(b) Flees from any Public Safety Officer or other law enforcement officer who is attempting to lawfully restrain him or her; or

(c) Assists another to avoid a lawful detention or harbors a fugitive.

Section 3.04 Infractions Against the Person and Animals

(2) A person commits the Infraction of Aggravated Assault if he or she;

(a) Threatens another with imminent bodily injury;

(b) Causes physical contact with another when the person knows or should reasonably believe that the person will regard the contact as offensive, threatening or provocative;

(c) Causes bodily injury to another;

(d) Causes serious bodily injury to another;

(e) Uses or exhibits a dangerous weapon during the commission of an assault; or other infraction; or

(f) Forcibly assaults resists, opposes, prevents, impedes, intimidates, or interferes with any authorized Public Safety Officer, Tribal Public Safety Officer or other law enforcement officer lawfully discharging an official duty.

(B) Harassment

A person commits the infraction of Harassment if, with the intent to harass, annoy, alarm, abuse, torment or embarrass another, he or she:

(a) Initiates communication by telephone, text message, social media or any other form of electronic communications, or in writing and in the course of the communication makes a comment, request, suggestion or proposal that is obscene or lewd;

(b) Threatens, by telephone, text message, social media or any other form of electronic communications, or in writing, in a manner reasonably likely to alarm the person receiving the threat, to inflict serious injury against the person, a member of his or her family or property;

(c) Conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;

(d) Causes the telephone of another to ring repeatedly or makes repeated telephone communications, text messaging, social media messages, or any other form of electronic communications, anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;

(e) Knowingly permits a telephone or other form of electronic communications under his control to be used by a person to commit an Infraction under this subsection;

(f) Intentionally stalks another.

(C) Cruelty to Animals and Animals at Large

A person commits "Cruelty to Animals" if he or she physically mistreats a domestic animal or livestock either by abuse or failure to furnish minimum care. Physical mistreatment of an animal shall include but is not limited to the killing, maiming, mutilating, beating, torturing, wounding, tormenting an animal and/or depriving an animal necessary sustenance, drink, food or shelter, or chaining or tying an animal in a confined area.

Section 3.04 Infractions Against the Person and Animals

(A) Assault or Aggravated Assault if he or she:

A person commits the Infraction of Aggravated Assault if he or she:

(a) Threatens another with imminent bodily injury;

(b) Causes physical contact with another when the person knows or should reasonably believe that the person will regard the contact as offensive, threatening or provocative;

(c) Causes bodily injury to another;

(d) Causes serious bodily injury to another;

(e) Uses or exhibits a dangerous weapon during the commission of an assault; or other infraction; or

(f) Forcibly assaults resists, opposes, prevents, impedes, intimidates, or interferes with any authorized Public Safety Officer, Tribal Public Safety Officer or other law enforcement officer lawfully discharging an official duty.

(B) Harassment

A person commits the infraction of Harassment if, with the intent to harass, annoy, alarm, abuse, torment or embarrass another, he or she:

Section 3.05 Infractions Against Minors

A person commits the Infraction of Contributing to the Delinquency of a Minor when he or she gives, purchases for, or furnishes;

- (a) Alcoholic beverages or drugs to any person under the age of 21; or
- (c) Cigarettes, marijuana, dangerous drug, narcotic drug or any drugs listed under Section 3.06, to any person under the age of 18.

Section 3.06 Drug and Alcohol Infractions

(A) Chemical Intoxication

A person commits the Infraction of Chemical Intoxication if he or she:

- (1) Inhales, ingests, applies, uses, or possesses a substance containing a volatile chemical, abusable glue or aerosol paint with the intent to inhale, ingest, apply, or use the substance in a manner;
- (2) Contrary to directions for use, cautions, or warnings appearing on a label of a container of the substance; and
- (3) Designed to;
 - (a) affect the person's central nervous system;
 - (b) create or induce a condition of intoxication, hallucination, or delirium; or
 - (c) change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.
- (d) Sells, offers for sale, delivers or gives to any person under the age of 18 years any volatile chemical, abusable glue or aerosol paint.

(B) Possession of Illegal Drugs

A person commits the Infraction of Possession of Illegal Drugs if he or she possesses or consumes without a medical prescription; or manufactures or distributes a Controlled Substance, Dangerous Drug, Narcotic Drug, or Drug Paraphernalia.

(C) Intoxication on Tribal Property

- (1) A person commits the Infraction of Intoxication on Tribal Property if he or she is intoxicated on Tribal Property to the degree that the person may endanger himself, herself or another.

(2) It is an exception under this subsection if the substance was administered for therapeutic purposes and as part of the person's professional medical treatment by a licensed physician.

(D) Intoxication While Operating a Motorized Vehicle

(1) A person commits the infraction of Intoxication While Operating a Motor Vehicle when he or she drives a vehicle on the Reservation, including Private Property;

(a) Under the influence of any alcohol, Controlled Substance, Narcotic or Dangerous Drug,
or

(b) With 0.08 percent or more by weight of alcohol in his or her blood; or

(c) With 0.01 percent or more by weight of alcohol in his or her blood if he or she:

(i) Is a minor; or

(ii) Has been previously cited by any Court for violation of this section.

(2) Any person who refuses to comply with the authorized breath test administration may be subject to a fine of triple the amount of the approved fine in addition to any other orders of the Tribal Court.

Section 3.07 Infractions Against Health and Safety

(A) Possession of a Concealed Weapon in a Public Place

It is a violation of this ordinance if a person;

(1) Carries concealed within any vehicle which is under his or her control, any pistol, revolver or other firearm capable of being concealed upon the person.

(2) Carries concealed upon his or her person any pistol, revolver, or other firearm.

(3) Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

(4) A firearm carried openly in a belt holster is not considered "concealed" as it applies to the above prohibition.

(5) Exceptions:

(a) Any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within tribal lands, and who is not prohibited by law from owning or possessing

firearms may carry, either openly or concealed, anywhere within his or her place of business, or on private property owned or lawfully possessed by him or her any pistol, revolver, or other firearm capable of being concealed upon the person. A permit or license to purchase, own, possess, keep, or carry is not required under these circumstances.

(b) The transportation or carrying of any pistol, revolver, or other firearm capable of being concealed upon the person by any citizen of the United States over the age of 18 years who resides or is temporarily within tribal lands, and who is not prohibited from owning or possessing firearms, provided that the following applies:

(i) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment; and

(ii) When the firearm is carried by the person to or from any motor vehicle for any lawful purpose, the firearm must be contained in a locked container while being physically carried.

(c) This does not apply to or affect the lawful transportation or possession of a firearm under specific circumstances, including, but not limited to, the following:

(i) The transportation of a firearm by a person who finds the firearm, and is transporting it to a law enforcement agency for disposition according to law, if he or she gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law. Firearms must be transported unloaded and in a locked container and the course of travel shall include only those deviations between authorized locations, as necessary.

(ii) The carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized by law to carry that weapon in a concealed manner.

(iii) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using concealable firearms upon the target ranges.

(iv) Authorized peace officers, retired peace officers, and retired federal officers or agents with appropriate credentials.

(v) Licensed hunters while engaged in hunting or while going to or returning from such hunting expeditions.

(vi) The possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is licensed in the business of manufacturing, repairing, or dealing in firearms.

(vii) The carrying of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person by duly authorized military or civil organizations while parading or the members thereof when going to and from the places of meeting of their respective organizations.

(viii) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(ix) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(x) Notwithstanding the exceptions cited in 3.07(A)(5) individuals may not carry or transport a loaded firearm. The firearm should be unloaded and placed in the trunk of the vehicle, or if the vehicle has no trunk, placed in a fully enclosed secure locked container other than the utility or glove compartment of a motor vehicle.

(B) Loaded Firearms

(1) Loaded Firearms in a Public Place

(a) It is unlawful to carry a loaded firearm on one's person or in a vehicle while in any public place, on any public street, or in any place where it is unlawful to discharge a firearm.

(b) A firearm is deemed loaded when there is a live cartridge or shell in, or attached in any manner to, the firearm, including, but not limited to, the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loading firearm is deemed loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder. A firearm is deemed loaded when both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(c) It is unlawful for the driver of any motor vehicle, or the owner of any motor vehicle irrespective of whether the owner is occupying the vehicle, to knowingly permit any person to carry a loaded firearm in the vehicle.

(d) In order to determine whether a firearm is loaded, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place, on any public street, or in any prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to these provisions is, in itself, a violation of this Ordinance.

(2) The prohibition against possessing loaded firearms in a public place does not apply to;

(a) Any person hunting in an area where firearm possession and hunting is otherwise lawful.

(b) Any person who carries a loaded firearm while engaged in the act of making or attempting to make a lawful arrest, provided such possession is otherwise lawful.

(c) Any person carrying a loaded firearm, if otherwise lawful, when he or she reasonably believes his or her person or property is in immediate, grave danger and that the carrying of the loaded firearm is necessary for preservation of life or protection of property during the time interval following notification of the local law enforcement agency when reasonably possible, and prior to the arrival of its assistance.

(d) Any of the following persons, provided they meet all criteria for such exemption, such as possession of special occupational licenses or completion of the required firearms.

- Members of the military forces of this state or the United States engaged in the performance of their duties.
- Target shooters at target ranges and shooting club members while hunting on the club premises, provided possession and use of the firearm is otherwise lawful.
- Holders of licenses to carry concealed handguns.
- Armored vehicle guards.
- Animal control officers or zookeepers.
- Guards or messengers of common carriers, banks, and other financial institutions.
- Guards of contract carriers operating armored vehicles.
- Private investigators, private patrol operators, and alarm company operators.
- Uniformed security guards or night watchpersons employed by any public agency.
- Uniformed security guards and uniformed alarm agents of an alarm company operator.
- Uniformed employees of private patrol operators.

(3) Peace officers and honorably retired peace officers having properly endorsed identification certificates (credentials) may carry a concealed weapon at any time. Otherwise, these exemptions apply only when the firearm is carried within the scope of the exempted conduct, such as hunting or target shooting, or within the course and scope of assigned duties, such as an armored vehicle guard transporting money for his employer.

(C) Firearms in the Home or Business

(1) Any person over the age of 18 who is not prohibited by law from possessing firearms, and if otherwise lawful, may keep and carry a firearm or have a firearm loaded at his or her place of residence, temporary residence, campsite, or on private property owned or lawfully possessed by the person.

(2) Any person engaged in any lawful business (including nonprofit organizations) or any officer, employee, or agent authorized for lawful purposes connected with the business may possess a loaded firearm within the place of business if that person is over 18 years of age and not otherwise prohibited from possessing firearms.

(3) A person's place of business, residence, temporary residence, campsite, or private property may be located in areas where possession of handguns or other firearms, whether loaded or unloaded, is otherwise prohibited. Such areas include, but are not limited to, state, federal, or private game reserves or refuges, federal and state parks, and other public land.

(D) Unlawful Operation of Motor Vehicle

A person commits the Infraction of Unlawful Operation of Motor Vehicle when:

(1) He or she operates a vehicle:

(a) on any street or road within the Reservation in willful disregard for the safety of persons or property; or

(b) in excess of the posted speed limit on any paved or unpaved road on the Reservation;
or

(c) in disregard of any posted road or traffic sign on any road on the Reservation; or

(d) without wearing a seatbelt; or

(e) without a valid state driver's license or vehicle registration; or

(f) without insurance; or

(g) with a child who is not restrained in a child safety seat.

(2) He or she refuses to provide his or her driver's license or proof of insurance at the request of a Public Safety Officer.

(E) Operation of Off Road/Highway Vehicles (OHV's) on the San Pasqual Reservation

(1) The reckless unsafe or disruptive (Public Nuisance) operation of OHV Vehicles not licensed for use on public roads is strictly prohibited on non-highway roads within the exterior boundaries of the San Pasqual Band of Indians Reservation.

(2) No person shall operate any OHV between the hours of 10:00 p.m. and 6:00 a.m.

(3) Any OHV being operated between the hours of dusk and dawn shall be equipped with a lighted headlight and a lighted taillight, which shall remain on between dusk and dawn. In addition, any OHV that is currently equipped with an operational lighted headlight and an operational lighted taillight shall have said lights on at all times of operation.

(4) When a person operating an OHV approaches livestock, horses, horseback riders, horses being driven or horse drawn carts, wagons or any other conveyance that involves livestock or horses, the OHV shall stop and shut off its engine.

(5) All OHV's and that cross any streets or highways will do so at a 90-degree angle to the center of the street or highway being crossed. All OHV's and snowmobiles will yield to all other traffic while crossing city streets, roads, highways or non-highway roads.

(6) No OHV's shall be operated in such a manner such as to harass pets, animals, game, wildlife or people.

(7) Except for an OHV equipped with seatbelts and roll bars or an enclosed passenger compartment, any person who operates or rides an OHV street, highway, alley, road, OHV trail or non-highway road must wear upon his or her head a motorcycle helmet fastened securely while in motion.

(F) Unlawful Parking of an Abandoned Motor Vehicle

A person commits the Infraction of Unlawful Parking when he or she parks, stops or leaves standing any motor vehicle within:

(1) areas designated solely for the passage or parking of emergency vehicles or postal service vehicles;

(2) a no-parking area as designated by a red painted curb or no parking sign; or

(3) a parking area designated for physically disabled persons without a valid State of California or Tribal physically disabled parking permits

CHAPTER 4. ENFORCEMENT

Section 4.01 Public Safety Officers' Duties

It shall be the duty of every Public Safety Officer to enforce this Ordinance and all supplemental rules and regulations governing peace and security on the Reservation adopted by the Tribe's General Council and enforced by the Tribe's Business Committee.

Section 4.02 Public Safety Officers' Authority

(1) In fulfilling his or her duties and responsibilities under this Ordinance, Public Safety Officers are vested with the authority to:

(a) Investigate possible violations of this Ordinance including but not limited to conducting warrantless searches pursuant to the provisions of the Indian Civil Rights Act and other applicable federal law, when in hot or fresh pursuit of a suspect, incident to arrest, plain view, consent or when exigent circumstances exist. This shall include the right to enter tribally owned or operated buildings or enterprises for the purpose of conducting a search, making an arrest or investigating a violation of tribal and federal law and when applicable state law;

(b) Obtain search warrants via writing or telephonic affidavit from the Tribal Court or, when applicable, state or federal authorities;

(c) Issue citations for violations of this Ordinance committed in their presence, where probable cause exists that an offense has been committed and use reasonable force to prevent a violation of this Ordinance or cause such violation to cease;

(d) Arrest and/or detain persons who commit violations of this Ordinance, applicable state or federal laws whether on or off the Reservation as authorized under state or federal law. In cases of non-Indian violators, the person may be transported to appropriate state or federal officials or detained until appropriate authorities may take custody. Any persons requiring detention will be booked into the Vista Detention Facility;

(e) Testify and otherwise provide evidence in proceedings arising out of violations of this Ordinance or state or federal criminal laws in tribal, state or federal proceedings;

(f) The Tribe's Chief of Public Safety may require assistance from federal, state, local and other law enforcement entities with its tribal law enforcement responsibilities under this Ordinance;

(g) The Tribe's Chief of Public Safety may deputize persons over 18 years of age who meet the hiring and training standards of the Public Safety Department;

(h) The Tribe's Chief of Public Safety may adopt policies and procedures necessary to perform Public Safety Officer Duties.

Section 4.03 Citations

A Public Safety Officer has the authority to issue citations for violations of this Ordinance committed in their presence or the Public Safety Officer has reasonable cause to believe a violation has been committed. Such citations shall be issued as soon as possible to the date and time of the violation.

Section 4.04 Identification

A person who is reasonably suspected of committing a crime or an infraction and is stopped by a Public Safety Officer is required to identify himself or herself by providing his or her name, address, and date of birth. If requested by the Public Safety Officer, the person shall also

produce picture identification card, such as a driver's license, military I.D. or Tribal I.D. card. If the person is unable or unwilling to identify himself or herself, or produce a picture identification card, the Public Safety Officer may detain the person for a reasonable period of time in order to identify the person and issue a citation.

Section 4.05 Notice Requirement

(1) The citation shall include the following:

(a) A statement that the crime or civil infraction is an offense for which imprisonment is not an available sanction;

(b) A statement listing the subsection of the Ordinance that was violated along with a statement briefly describing the conduct of the person which lead to the violation;

(c) A statement listing the monetary penalty imposed for the Infraction and that the person may be noticed by separate letter that the penalty amount has increased after determination that the person has previous violations;

(d) A statement on how the person may contest the citation:

(e) A statement that the person must respond to the citation within thirty (30) days from the date of personal service of the citation or sixty (60) days from the date of service by mail; and

(f) In the case of a civil citation, 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 Court for person's failure to appear.

(g) In the case of a criminal citation, a statement that if the person fails to appear a warrant may be issued for his or her arrest and that he or she could be subject to additional fines or punishment under this Ordinance.

Section 4.06 Second Notice

A second notice may be served on a person who has been served a citation informing him or her that the amount of the penalty reflected on the citation has been increased due to the fact that the person has previously been cited for one or more times in the past twelve months for the same infraction thereby enhancing the penalty for the recent infraction. This second notice shall inform the person of the revised penalty amount and again inform the person where he or she may pay the fine and the process for contesting the citation.

Section 4.07 Service of the Citation

The citation may be served on the person in the following manner;

(a) Personal service; or

(b) Mailing the citation by certified or registered mail, return receipt requested,

addressed to the person at his or her mailing address if known, or such other place which is believed to give the occupant or owner actual notice of the citation by the Public Safety Officer.

(c) Service is deemed effective on the date of the personal service or when the certified mail is either delivered or delivery is attempted. If the certified mail receipt is returned unsigned, then service shall be deemed effective on the date three days following deposit in the mail.

(d) Where service of any notice required under this Ordinance is effected in compliance with this Section and with due process the asserted failure of any person to receive the notice shall not affect the validity of any proceedings taken under this Ordinance.

(e) A copy of citation and, if applicable, the proof of service shall be filed with the Tribal Court within five business days of issuance, excluding weekends and holidays. If the Tribal Court does not receive the citation within this timeframe, the Tribal Court may dismiss the citation without prejudice.

Section 4.08 Seizure/Forfeiture of Property

A Public Safety Officer may, upon probable cause when issuing a citation for an infraction, seize any property used in the commission of a violation of this Ordinance. All property utilized in violation of this Ordinance is also subject to seizure and forfeiture by order of the Tribal Court. The Tribe must return any property confiscated to its rightful owner unless the Tribal Court determines that the possession of the property is unlawful or could be deemed a risk to facilitate further violations of this Ordinance, in which case it will become the property of the Tribe. The Tribe may enter into an agreement with the San Diego County Sheriff's Office or any other California Peace Officers Standards and Training Agency (P.O.S.T.) certified agency, to store property seized by the Public Safety Department.

CHAPTER 5. HEARING PROCEDURES

Section 5.01 Response Options

A person shall respond to the citation in one of the following ways:

(a) Pay the fine by submitting a cashier check or money order in the amount of the civil fine to the Tribe within thirty (30) days from the date the citation is served; or

(b) Request a hearing by completing that portion of the citation form and submitting the request to Tribal Court, per the instruction on the citation, within thirty (30) days from the issuance of the citation if served personally or sixty (60) days from the issuance of the citation if served by mail.

Section 5.02 Civil Citations

(1) Failure to Respond and Default Judgment

(a) The Tribal Court shall enter a default judgment and impose additional sanctions against a person who is served with a citation; and

(b) fails to pay the fine amount; or

(c) fails to request a hearing; or

(d) fails to appear at a hearing that he or she has requested.

(2) Burden of Proof

The burden of proof shall be on the Tribe; however, the citation and any additional reports submitted by the Public Safety Officer shall constitute presumptive evidence of the respective facts contained in those documents. In cases where the defendant contests the citation, the standard of proof shall be clear and convincing.

Section 5.03 Criminal Citations

(1) Failure to Respond

(a) The Tribal Court may issue a warrant for the arrest of a person who fails to respond:

(b) May result in additional charges, fines or punishments.

(2) Burden of Proof

The burden of proof shall be on the Tribe. If a plea of not guilty is made, the standard of proof shall be beyond a reasonable doubt.

Section 5.04 Hearing

(1) Upon receipt of a request for hearing the Tribal Court shall schedule a hearing within 90 days from the date the hearing request is filed and provide written Notice of Hearing to the person requesting the hearing (herein "Defendant") and the Public Safety Department. The Notice of Hearing shall state the date, time and place of hearing and shall be issued at least 30 days prior to the date of the hearing. The Notice of Hearing to the Public Safety Department shall include as an attachment a copy of the Defendant's completed request for hearing form.

(2) If the Public Safety Officer submits an additional written report concerning the citation to the Tribal Court for consideration at the hearing, then a copy of this report also shall be served on the Defendant at least fifteen (15) days prior to the date of the hearing.

(3) The Defendant or the Tribe may request one (1) continuance for any reason, provided that Tribal Court is given the request for a continuance at least five (5) business days in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than 60 days after the hearing request was granted. A request for continuance made less than five (5) business days before the scheduled hearing may be granted by the Tribal Court Judge based upon exigency only.

(4) All hearings shall be open to the public unless the Tribal Court finds good cause for the hearing to be closed. It shall be at all-times at the discretion of the Tribal Court to close any hearing. At the hearing, both the Tribe and the Defendant shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the citation. The Tribe and Defendant may appear personally or through an attorney. Pre-hearing discovery is not authorized, but subpoena of witnesses and documents shall be permitted as authorized by tribal law or the Tribal Court's Rules of Court. The Tribal Court is authorized to conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing.

(5) The Tribal Court may continue the hearing and request additional information from the Plaintiff or the Defendant prior to issuing a written decision.

Section 5.05 Tribal Court Decision

(1) After considering all the testimony and evidence submitted at the hearing, the Tribal Court Judge shall issue a written decision to uphold or dismiss the citation and the reasons for that decision, including written findings on each violation. The decision of the Tribal Court Judge shall be issued within thirty (30) calendar days following completion of the hearing.

(2) If the Tribal Court Judge determines the citation should be upheld, he or she may apply any of the following remedies:

(a) Issue an injunction, by ordering the Defendant to temporarily or permanently refrain from conducting the acts or actions that gave rise to the civil citation.

(b) Impose fines in an amount not to exceed the maximum provided in the Fine Schedule adopted by the General Council in effect on the date the violation occurred. In determining the amount of the fine, the Judge may take into account any or all of the following factors:

- (i) the duration of the violation;
- (ii) the frequency, recurrence, and number of violations, related or unrelated, by the same violator;
- (iii) the seriousness of the violation;
- (iv) the economic impact of the violation on the community; and
- (v) such other factors as justice may require.

(c) Suspend the fine on the condition the Defendant does not commit any other violations of this Ordinance and complies with all Tribal Court orders relating to the violation during a specified period not to exceed one (1) year.

(d) Order restitution to be paid to those affected by the violation.

(e) Order community service in addition to or in lieu of a fine. Such community service shall, if possible, be related to the offense.

(f) Issue such other orders as may be deemed fair and just by the Tribal Court including a public or private apology.

(3) If the Tribal Court Judge finds that a request for civil citation hearing is completely without merit, he or she may hold the Defendant liable for, and order Defendant to pay, the Tribe's reasonable fees and costs, including attorney's fees.

(4) If the Tribal Court Judge determines the citation should be upheld, he or she shall set forth in the decision the payment schedule for the fine as well as for payment of any administrative costs assessed under Subparagraph 5.05(3) above. Late payment charges shall accrue and be payable in the amount and by the terms specified in the Fine Schedule.

(5) If the Tribal Court Judge determines the citation should be dismissed, he or she shall issue a decision dismissing the civil citation.

(6) The Defendant and the Tribe shall be served with a copy of the decision within seven (7) calendar days of its issuance.

(7) The decision of the Tribal Court Judge shall be final upon service on the Defendant and not subject to further review.

CHAPTER 6. PENALTIES

Section 6.01 General Penalty Provisions

(1) A person committing a violation under this Ordinance will be subject to a fine in an amount not to exceed the maximum provided in the fine schedule adopted by the General Council in effect on the date the violation occurred;

(2) In addition to or in lieu of the fine, the Tribal Court may grant such other relief as is necessary and proper including but not limited to the following; community service, restitution, treatment and/or counseling, or protective order;

(3) The Tribal Court has the authority to forfeit property or cite for contempt.

Section 6.02 Fines Deferred

The Tribal Court may choose not to impose a fine for a period not to exceed one (1) year if justice so requires and the following criteria are met:

(a) The person has not committed any previous violations of this Ordinance; and

(b) The person does not commit any other violations of this Ordinance during the time the civil penalty is deferred or suspended; and

(c) The person does not commit any infractions, violations or offenses in any other jurisdictions during the time the civil penalty is deferred or suspended; and

(d) The person complies with all Tribal Court orders concerning the Infraction to the best of his or her ability.

Section 6.03 Community Service

The Tribe recognizes that a person who violates this Ordinance may be unable to pay his or her fine as imposed by the Tribal Court. For this reason, the Tribal Court, at its discretion, may order community service in addition to or in place of a civil fine. The Tribal Court will determine if the person is a suitable candidate for community service.

(a) A person approved for community service by the Tribal Court shall be referred to as a Community Service Worker.

(b) The Tribal Court will:

- (i) keep a log of both services requested and performed;
- (ii) provide a form for verification of the Community Service Worker's hours of service.

(c) Community Service is limited to service:

- (i) at Tribal Property; or
- (ii) for a Tribal Agency; or
- (iii) at the primary residence of a tribal elder.

(d) Tribal Agencies or elders who want the assistance of a Community Service Worker must submit a written request to the Tribal Court and assistance will be provided in the order that requests are received.

(e) The community service worker will obtain written verification supporting the hours of service on the provided form and submit the form to the Tribal Court.

Section 6.04 Referral for Treatment

(1) In place of or in addition to a fine, the Tribal Court may refer a Defendant to mental health providers including an alcohol/substance abuse program, and/or social services program for counseling and/or treatment.

2) After completion of an evaluation, the agency conducting the evaluation shall report its findings and recommendations to the Tribal Court or an officer assigned by the Tribal Court.

(3) The Tribal Court may order mental health providers to submit progress reports of treatment. An officer assigned by the Tribal Court will monitor the person's progress in his or her treatment program.

(4) Residential treatment is an option if requested by the person who violated this Ordinance and if recommended by a mental health provider, an alcohol/substance abuse program, or social services program.

Section 6.05 Enforcement of Civil Fines

(1) In any case where a person has been found to have committed an Infraction and a civil penalty has been assessed, the person has thirty (30) days to pay the civil fine. For good cause shown, the Tribal Court may extend the time for payment or approve an installment plan. Parent(s), guardians, or any adult responsible for the care of minor (a person under the age of 18) are liable for the civil fine of a minor.

(2) If the person has not paid the civil fine within the time allotted by the Tribal Court, the Court may take any and all actions necessary to collect the civil fine, including but not limited to the referring the civil fine to a collection agency or other collection institution.

CHAPTER 7. CIVIL EXCLUSION AND REMOVAL

Section 7.01 Purpose

The General Council of the San Pasqual Band of Mission Indians ("Tribe") finds that certain types of conduct by non-members within the Reservation endangers the health, safety and welfare of enrolled members of the Tribe, endangers Tribal lands and real and personal property of tribal members, and may threaten the political integrity and economic security of the Tribe. Access to the Reservation of the San Pasqual Band of Mission Indians is a privilege granted by the Tribe, and, as a separate sovereign nation, the Tribe has the inherent power to withdraw the privilege and exclude non-members from the Reservation. The purpose of the Civil Exclusion and Removal provision is to protect the integrity and security of the Tribe and its members, and provide a civil exclusion and removal procedure consistent with the requirements of the Tribe's Constitution and other applicable law.

Section 7.02 Authority

This provision is enacted pursuant to the Constitution and Bylaws of the San Pasqual Band of Mission Indians, as ratified by the Tribal membership on November 29, 1970 and approved by the Secretary of the Department of the Interior on January 14, 1971, pursuant to Section 16 of the Act of June 18, 1934, as amended.

Section 7.03. Exclusion of persons from the Reservation

It is unlawful and constitutes a violation of this Ordinance for any non-member to enter or remain upon any portion of the Reservation, if they have been excluded from the Reservation by Order of Exclusion ("Order") issued by the Business Committee after they have been personally served with a notice to show cause under Section 7.05(a) and either 1) failed to respond to the notice of hearing or, 2) if, after a hearing, they have been served with the Order excluding them.

Section 7.04. Order of exclusion, grounds

The Business Committee shall have the authority to issue an Order of Exclusion under this Ordinance, excluding a non-member from the Reservation for a specified period of time or permanently. It may issue such an order to any person who:

- (1) Has occupied Tribal land without the consent of the Tribe.
- (2) As demonstrated by past conduct, constitutes a threat to the peace and privacy or personal safety of persons who live and work on the Reservation, or presents an unreasonable risk of injury or damage to or loss of property located on the Reservation.
- (3) Has acted improperly and willfully to interfere with the operation of the Tribe's government, the administration and delivery of tribal services, or the operation of public and private businesses authorized on the Reservation.
- (4) Has committed the following or similar acts on the Reservation; trespassed on tribal land; dumped or disposed of garbage or refuse on tribal land; remained in possession of tribal land after expiration of a lease or tribal land assignment; damaged any tribal cultural site; discharged or pointed a firearm (whether loaded or unloaded) in a threatening manner; or used or sold any illegal drug or provided drugs or alcohol to minors.
- (5) Any other misconduct or objectionable condition found by the Tribe can be sufficient cause for exclusion, provided that the person is first advised of the objection and given notice to desist but nevertheless continues the misconduct or condition.

Section 7.05. Order of Exclusion, Civil Procedure.

The Business Committee shall issue an Order of Exclusion under Section 7.03 above, using the following civil procedure:

- (1) Notice to Show Cause.

Whenever the Business Committee has reason to believe that a non-member is subject to an Order under Section 7.03 above for any of the reasons stated in Section 7.04, it shall issue a notice ("Notice to Show Cause") to that person ("Defendant") on a form approved by the Business Committee for that purpose.

The Notice to Show Cause shall state that access to the Reservation of the San Pasqual Band of Mission Indians is a privilege granted by the Tribe and that the Tribe has inherent authority to withdraw this privilege and exclude persons from tribal lands. The Notice shall also describe the grounds for exclusion as provided in Section 7.04, and set a date and time for hearing before the Business Committee.

The Notice to Show Cause shall be personally served by a Tribal Public Safety Officer, who may serve the notice by handing it to the person ("Defendant") who would be the subject of the Order of Exclusion. Thereafter, the Officer serving the notice shall complete a certification of personal service file it with the Secretary-Treasurer of the Business Committee.

(2) Exclusion Hearing.

(a) The hearing on the Notice to Show Cause shall be conducted at a regular or special meeting of the Business Committee at which a quorum is present at a location determined by the Business Committee.

All action shall be taken based on an affirmative vote of the majority of those Committee members present. The Defendant shall have the right to appear and be represented by an attorney authorized to practice before the Intertribal Court of Southern California.

The hearing shall be conducted informally and in confidence, excluding the general public, except for witnesses called by the Defendant or the Business Committee.

The Defendant may produce documents and provide any explanation or argument he or she believes is appropriate. With prior approval of the Business Committee, the Defendant may present the testimony of witnesses.

(b) After the Defendant has presented his/her case, the Business Committee may deliberate in closed or executive session, and issue a decision within seven (7) days. The Business Committee must base its decision on the evidence presented during the hearing and applicable Tribal law. Any decision to exclude can be temporary or permanent and by its terms can exclude the Defendant from specific tribal lands or the entire Reservation. The Defendant shall be served with the Order of Exclusion on a form approved by the Business Committee for that purpose. This form is to include all of the information necessary for the defendant to file notice for an appeal to the General Council.

An Order of Exclusion shall state that access to the Reservation of the San Pasqual Band of Mission Indians is a privilege granted by the Tribe and that the Tribe has inherent authority to withdraw this privilege and exclude persons from tribal lands.

The Order shall also state the grounds for exclusion, state the period of exclusion or that the exclusion is permanent, and state the specific tribal lands the Defendant is excluded from or that the Defendant is excluded from the entire Reservation.

An Order of Exclusion shall become effective twenty-four (24) hours after it is served or if determined by the Business Committee that safety issues requires the immediate removal of the person named in the order as provided in Section 7.04

(c) If the Defendant fails to appear at the hearing, the Business Committee may make a decision and issue the Order, as appropriate. If the Defendant cannot be personally served, the Business Committee shall be required to give only the notice provided in Section 7.07

(d) If the Notice to Show Cause is discharged after hearing, subject to an Order with conditions on future conduct, the Order of Exclusion may be automatically reinstated if the Defendant violates any condition.

(e) In the case of persons under the age of 18, the Business Committee shall serve a Notice to Show Cause on the Defendant and his or her parent, legal guardian or person in apparent charge

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of the minor (collectively, "parent or parents"). The parent shall have the same rights as the minor to notice and to participate in the hearing. Among other issues, at the hearing the Business Committee will determine if a suitable placement for the minor exists outside the boundaries of the Reservation. If not an order excluding the minor may also exclude the parent or parents.

(f) In any situation where the Business Committee determines that holding a hearing on a Notice to Show Cause would pose a threat to the peace and privacy or personal safety of persons involved in the hearing process, a hearing may be held in a neutral setting off of the Reservation.

Section 7.06. Appeals to the General Council

A Defendant subject to an Order of Exclusion (or the parents of a person excluded pursuant to Section 7.05 (2)(e) may appeal for review of the Order to the General Council by notifying the Secretary-Treasurer, in writing, within ten (10) days following posting of the Business Committee's Order pursuant to Section 7.07, and request that the appeal be placed on the agenda for the next regularly scheduled General Council meeting. The written notice must include a statement setting forth explanation or argument the Defendant believes appropriate for the General Council to consider, in addition to the record of the hearing before the Business Committee. Review of the Order will not include any oral presentation by Defendant to the General Council. The General Council may adopt, modify or reverse the Order issued by the Business Committee. The decision of the General Council shall be final for the Tribe.

Section 7.07. Notice of Order of Exclusion

(1) Upon the issuance of an Order of Exclusion, the Business Committee shall give public notice of the order and any subsequent discharge of the order, by the following means:

(a) By posting the notice for a period of five days at the tribal office and any house or structure located on any expired leasehold, assigned or unassigned tribal lands occupied or used by the person to be excluded.

(b) By personal service and by mailing notice to the person to be excluded if their mailing address is known.

(c) By mailing notice to the San Diego County Sheriff's Department and the Bureau of Indian Affairs.

(2) The notice shall be in the form and contain the statements set forth on a form approved by the Business Committee for that purpose.

(3) The Business Committee may establish signs at the entrance to the tribal land or Reservation stating; "Entrance Prohibited to Persons Excluded by Order of the Business Committee. No Trespassing by Such Persons. Prohibited Entry Subject to Criminal Penalties. (Cal. Penal Code Section 602 - Trespass.)"

Section 7.08. Tribal Public Safety Officers

Tribal Public Safety Officers shall have the following duties and authority;

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- (1) To escort persons subject to exclusion orders to a location off of Tribal land or outside the boundaries of the Reservation, using only as much force as is reasonably necessary for such exclusion.
- (2) At the direction of the Business Committee, the tribal enforcement officials shall enforce tribal exclusion orders by removing the person excluded and their possessions from Tribal land or the Reservation or storing the possessions at the person's expense. In removing possessions, the official shall exercise ordinary and reasonable care to avoid damage to the possessions, while they are in his or her custody, and shall prepare an inventory of the items and mail a notice to the defendant that he or she may recover possession of the property upon payment of seizure and storage costs.
- (3) To restrain a person, exercising such restraint as is reasonable for his or her arrest and detention, pending transfer of the person to the custody of a County Sheriff or other state or federal peace officer.
- (4) To serve documents as required by this Ordinance.

Section 7.9. Implementation

The Business Committee is authorized to adopt uniform procedures and forms for notices, orders and other documents required by this Ordinance.

CHAPTER 8. GENERAL PROVISIONS

Section 8.01 Sovereign Immunity

Nothing in this Ordinance is intended to waive the tribal sovereign immunity enjoyed by the Tribe or its officials acting within the course and scope of their office. Nothing in the Ordinance is intended as consent to suit. In carrying out the provisions of this Ordinance, tribal officers and employees are immune from suit.

The sovereign immunity of the Tribe shall extend to its Public Safety Officer(s) to the extent permitted by federal and tribal law. The sovereign immunity of the Tribe is in no manner waived by this Ordinance, by any action by its Public Safety Officers, or any of the employees of the Tribe or any tribal law enforcement officer acting pursuant to this Ordinance.

Section 8.02 Severability

If any provision of this Ordinance or the application of the Ordinance to any person or circumstance is held invalid, such invalidity will not affect the legality of the other provisions or application of this Ordinance, and to this end the provisions of this Ordinance are severable.

Section 8.03 Amendments

This Ordinance may be amended or repealed by the General Council by a vote of two-thirds

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(2/3rds) of the General Council and voting at a General Council meeting called for that purpose, a quorum being present.

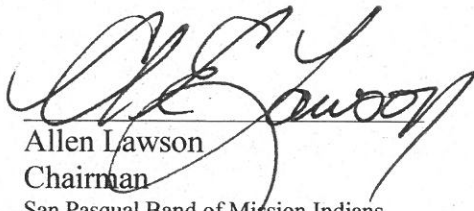
This Ordinance may be amended by the Business Committee as provided for under the Tribe's Constitution and By-Laws for the purpose to clarify language or to be in immediate compliance with changes in federal and state law that effect this Ordinance. Such amendments will be brought before the General Council at the next regular meeting for ratification.

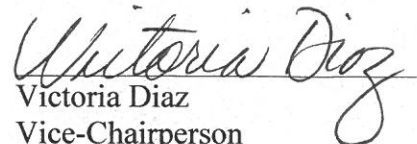
Section 8.04 Effective Date

This Ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect immediately after the adoption of this Ordinance by the General Council.


CERTIFICATION

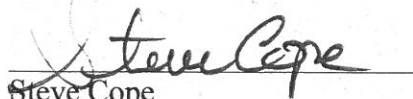
The foregoing Ordinance was adopted by the General Council at a meeting duly called, and at which a quorum was present, on the 11th day of October, 2015 by a vote of 52 for 12 against and 3 abstaining.


Allen Lawson
Chairman
San Pasqual Band of Mission Indians


Victoria Diaz
Vice-Chairperson
San Pasqual Band of Mission Indians


Tilda Green
Secretary/Treasurer
San Pasqual Band of Mission Indians


Dave Toler
Councilman
San Pasqual Band of Mission Indians


Steve Cope
Councilman
San Pasqual Band of Mission Indians

