



Pauma Band of Mission Indians

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RESOLUTION 031706-04 *Established 1893*

EXCLUSION OF PERSONS FROM THE PAUMA BAND OF MISSION INDIANS' RESERVATION

WHEREAS: The Pauma Band of Mission Indians ("Tribe") is a federally recognized Indian Tribe recognized by the United States Secretary of Interior with the inherent sovereignty and duty to regulate the territory of the Band; and

WHEREAS: It has been a long standing custom and tradition of the Pauma Band of Mission Indians to protect, manage, administer and enhance tribal resources and assets for the protection of the health, safety and welfare of the general membership; and

WHEREAS: The General Council is the governing body of the Tribe pursuant to Article 3 of the Tribe's Articles of Association, having all the legislative powers and responsibilities of the Tribal Government; and

WHEREAS: The General Council hereby adopts the Ordinance of "Exclusion of Persons From The Pauma Band of Mission Indians' Reservation" ("Exclusion Ordinance"). The General Council adopts the Exclusion Ordinance this day of March 17, 2006; and

WHEREAS: The General Council recognizes that the former Ordinance known as the "Trespass..." Ordinance is no longer in effect and is superseded by the Exclusion Ordinance is will be in effect as of March 17, 2006.

NOW, THEREFORE BE IT RESOLVED: That the Tribe, through its General Council, hereby adopts this Exclusion Ordinance.

CERTIFICATION

We, the undersigned, the duly elected officers of the Pauma Band of Mission Indians, do hereby certify that the foregoing Resolution was adopted at a General Council Meeting, at which a quorum was present, held on March 17, 2006 by a vote of 23 for 3 against 1 abstain.

Chris C. Devers, Tribal Chairman

John D. Osuna, Vice Chairman

Cynthia Toledo, Secretary/Treasurer

Marlaine Bojorquez, Councilwoman

EXCLUSION OF PERSONS FROM THE PAUMA BAND OF MISSION INDIANS' RESERVATION

INTRODUCTION

The General Council of the Pauma Band of Mission Indians ("Tribe"), pursuant to its authority under Section 6 of the Articles of Association of the Pauma Band of Mission Indians, does hereby enact this Ordinance titled "Exclusion of Persons From the Pauma Band of Mission Indians' Reservation" ("Ordinance") for the protection of the health, safety and welfare of the general membership, tribal lands, property and resources. This Ordinance, upon approval, shall supersede all previous guidelines, ordinances, or policies that pertain to trespass upon the Pauma Reservation and the removal of non-member from the Pauma Reservation. The term "non-member" as used throughout this Ordinance shall include non-member Indian and non-Indian.

SECTION 1. PURPOSE

It is the inherent and sovereign authority of the Tribe to exclude non-members from its lands who are found to threaten or directly affect the Tribe's domestic tranquility, political integrity, economic security, health, safety or welfare. In exercising its sovereign authority to exclude non-members from Pauma tribal lands, the Tribe does so through its civil jurisdiction to regulate all persons on tribal lands. The purpose of this Ordinance is to provide the procedures that will be used by the Tribe in any and all exclusion petitions filed with the Business Committee (Tribal Council). This Ordinance is written in compliance with tribal custom and tradition and the Indian Civil Rights Act of 1968, 25 U.S.C. 1301 et seq.

SECTION 2. PRESERVATION OF DUTIES AND RIGHTS

Nothing in this Ordinance shall be construed to relieve the United States, the State of California or the County of San Diego of any duty it may have to remove non-members who are upon the Pauma Reservation in violation of any law or regulation of the United States, the State of California or the County of San Diego. Nothing in the Ordinance shall be construed to interfere with the right of any person to be upon or pass through the Pauma Reservation in accordance with any law or regulation of the United States, the State of California or the County of San Diego.

SECTION 3. GROUNDS FOR EXCLUSION

Any non-member may be excluded from the Tribe's Reservation for threatening or directly affecting the Tribe's domestic tranquility, political integrity, economic security, health, safety, welfare or moral conviction. Such acts that constitute grounds for exclusion may include, but are not limited to the following:

- (1) Unauthorized wood cutting or other activities causing physical loss or damage to tribal property or natural resources on the Reservation;
- (2) Conviction of a crime by a tribal, state, or federal court;
- (3) Conduct of such nature as to be offensive to the morals of the tribal membership;
- (4) Forcing entry into any tribal home or property tribally owned;
- (5) Interfering with or photographing tribal ceremonies without permission;

- (6) Defrauding any tribal member of just compensation for her/his labor or service of any nature where such performance was at the request of the non-member Indian or non-member;
- (7) Breach of the peace or public intoxication from liquor or drugs three or more time;
- (8) Repeated violation of traffic regulations;
- (9) Entering upon any area of the Reservation designated as closed by the General Council or the federal government for whatever purpose;
- (10) Removing or attempting to remove any minor tribal member from the Reservation without proper court authority;
- (11) Unauthorized hunting on the Reservation;
- (12) Creating a nuisance that interferes with the quiet enjoyment of tribal members living on the Reservation;
- (13) Fighting, threatening violence or tumultuous behavior;
- (14) Willful or negligently injuring another person;
- (15) Refusing to obey the lawful and reasonable directions of any tribal official;
- (16) Failure to leave or otherwise quit any property upon request by a competent authority (i.e owner, assignee, resident, or authorized official); or
- (17) Violation of any applicable tribal rule, regulation, policy or ordinance.

SECTION 4. EXCLUSION PETITIONS

Any tribal member or the Business Committee (Tribal Council) may petition for the exclusion of a non-member from the Reservation. The "Exclusion Petition ("Petition")" will be in writing, on a form to be developed by the Business Committee (Tribal

Council) within thirty (30) days of enactment of this Ordinance. All Petitions will be submitted to the Business Committee (Tribal Council). The Tribal Law Enforcement Officer will investigate the grounds stated in the Petition for exclusion and will document its findings, when appropriate. All documents relating to investigation will be available to the non-member who is subject to the Exclusion Petition.

SECTION 5. NOTICE OF HEARING ON EXCLUSION

Upon completion of its investigation as provided for under Section 4., the Business Committee (Tribal Council) will determine if any action should be taken on the Petition. If the Business Committee (Tribal Council) determines that there is sufficient grounds to proceed with exclusion, it will file the Exclusion Petition and all relevant documents from the investigation and/or related to the Petition with the Intertribal Court of Southern California (“Tribal Court”).

The Tribal Court will issue a “Notice of Hearing On Exclusion” (“Notice”) to the non-member subject to the Petition. The time period for issuing and serving the Notice on the non-member shall be established by the Tribal Court. The Petition will be attached to the Notice and served on the non-member subject to the Petition. Service may be made personally on the non-member, left with a person 18 years or older at the non-member’s place of residency, left at the non-member’s place of employment or business, sent by registered mail, or served in any other method approved by the Tribal Court. The Notice shall state the reason(s) for the non-member’s exclusion and shall designate the date, time and location, when the non-member shall appear before the Tribal Court to show cause why he/she should not be excluded from the Pauma Reservation.

SECTION 6. EXCLUSION HEARING

The Tribal Court shall conduct the exclusion hearing pursuant to established court rules and procedures and will ensure that the rights afforded the non-member under Indian Civil Rights Act are protected.

SECTION 7. ORDER OF EXCLUSION

Following the Exclusion Hearing the Tribal Court shall prepare and serve the non-member its written decision. If the Tribal Court determines there is sufficient evidence to exclude the non-member the Court shall issue an "Order of Exclusion ("Order"). The Order shall direct the non-member to leave the Pauma Reservation and not to enter or remain on the Pauma Reservation and shall set forth any limits or conditions that the Court has placed on non-member's exclusion. If the non-member has personal property on the Reservation and has been excluded from the Reservation for all purposes, the Order shall set forth the date, time, and location that the non-member can meet with the Tribal Law Enforcement Officer to retrieve his or her property. The Order will be served on the non-member in the same manner as service of "Notice of Hearing on Exclusion".

A non-member, excluded from the Reservation for more than one year, may petition the General Council after one full year of exclusion for permission to return to the Reservation. The request must be in writing.

SECTION 8. VIOLATION OF AN EXCLUSION ORDER AND ENFORCEMENT

a. It shall be unlawful and constitute a violation of this Ordinance for any non- member remain on the Pauma reservation after he or she has be ordered to leave the Reservation.

b. It shall be unlawful and constitute a violation of this Ordinance for a non-member to enter and occupy any tribal property or structure of any kind after being excluded from the Pauma Reservation pursuant to this Ordinance.

c. It shall be unlawful and constitute a violation of this Ordinance for any non- member to enter or remain in any non-commercial dwelling (house) or other residential place after being excluded from the Pauma Reservation pursuant to this Ordinance.

d. It shall be unlawful and constitute a violation of this Ordinance for any tribal member, lessee, or assignee of tribal trust land or owner or tenant of housing on the Pauma Reservation to allow a non-member who has been excluded from the Reservation pursuant to this Ordinance to enter, occupy, or remain upon or within their leased property, assignment, or home after being given notice that the non-member has been excluded from the Pauma Reservation.

e. It shall be unlawful and constitute a violation of this Ordinance for any tribal member to transport a non-member who has been excluded from the Reservation pursuant to this Ordinance on to the Reservation.

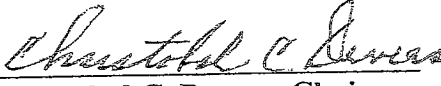
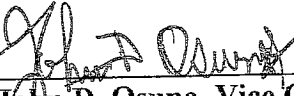


appeal with the Business Committee (Tribal Council) within fourteen (14) days from receipt of the notice. If no appeal is filed or the Business Committee (Tribal Council) denies the tribal member's appeal, the Business Committee (Tribal Council) shall impose a fine in an amount to be determined by the Business Committee, but in no event greater than \$5,000.00. Said fine will be collected from the tribal member's next monthly per capita payment or by any other lawful means.

d. If a non-member fails to voluntarily comply with an Order of Exclusion, the Tribal Court is hereby authorized to seek enforcement of the Order through all legal means, including but not limited to, state and federal court enforcement or through the San Diego County Sheriff's Office. At such time the Tribe establishes a law enforcement department, that entity will become responsible for the enforcement of tribal Exclusion Orders.

SECTION 9. AMENDMENTS This Ordinance shall be reviewed by the General Council one year from the date of its approved in order to determine whether any sections should be amended, revised or deleted. All future amendments shall be approved by the General Council.

CERTIFICATION

The Exclusion of Persons From the Pauma Band of Mission Indians' Reservation Ordinance was adopted by the Tribe by a Ballot vote on March 17, 2006 by a vote of 23 for; 03 against; 1 abstain.

 Christobal C. Devers, Chairman	 John D. Osuna, Vice Chairman
 Cindy Toledo, Secretary/Treasurer	 Marlaine Bojorquez, Councilwoman