

TITLE 1. GOVERNANCE

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Section 1-1.10 Code Adoption and General Provisions

1-1.10.010 Adoption. Pursuant to Article VI, Section 2(d) of the Constitution of the Tribe, there is hereby adopted the Hopland Tribal Code, which shall be codified as provided herein.

1-1.10.020 Title Citation. The code adopted by this ordinance as codified in this chapter shall be known as the Hopland Tribal Code, and it shall be sufficient to refer to said code as the Tribal Code in any prosecution for the violation of any provision thereof or in any proceeding at law or in equity. It shall be sufficient to designate any ordinances adding to, amending, correcting or repealing all or any part thereof as an addition to, amendment to, correction or repeal of, the Tribal Code.

1-1.10.030 Ordinances Included in Code. Ordinances enacted prior to this Ordinance shall remain in effect and are the law of the Tribe, and will be made a part of the Hopland Tribal Code. All ordinances enacted prior to or after this Ordinance shall be assigned a title by the Tribal Council of the Tribe and shall be codified by title and divided into Chapters and sections as part of the Tribal Code.

1-1.10.040 Reference Applies to Amendments. Whenever a reference is made to the Tribal Code or to any part thereof, that reference shall apply to all amendments, corrections and additions now or hereafter made.

1-1.10.050 Title, Chapter and Section Headings. Title, chapter and section headings contained in the Tribal Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section thereof.

1-1.10.060 Effect of Code. Neither the adoption of the Tribal Code nor the repeal or amendment thereby of any ordinance or part of any ordinance of the Tribe shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the Code, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu to any ordinance; and all rights and obligations arising therefrom shall continue in full force and effect.

1-1.10.070 Resolution and Ordinance Books. In addition to the Tribal Code, the Secretary of the Tribal Council shall cause to be prepared and maintain a resolution and an ordinance book. The resolution book shall contain all Tribal Council resolutions in reverse chronological order. The Ordinance book shall contain all Ordinances and referendum measures of the Tribe in reverse Chronological order. Both books shall contain an index.

1-1.10.080 Severability. If any section, subsection, sentence, clause or phrase of this Tribal Code is for any reason held to be unconstitutional or invalid, such decision shall not

effect the remaining portions of this Code. The Tribal Council declares that it would have passed the ordinances codified in this Code and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more such provisions be declared unconstitutional or invalid.

1-1.10.090 Effective Date. This Ordinance shall take effect immediately upon its passage.

Section 1-1.20 Tribal Seal

1-1.20.010 Adopted. A seal for the Tribe is hereby adopted and shall be described as follows: The central space shall contain the words, and surrounding which, in the margin of the seal shall appear the words, "Hopland Band of Pomo Indians." In the center of the seal shall be a picture, a copy of which shall be approved by the Tribal Council by resolution.

1-1.20.020 Custodian of Seal. The Secretary of the Tribal Council shall be the official custodian of the Tribal Seal.

1-1.20.030 Tribal Flag. There shall be a Tribal flag containing the seal of the Tribe. The Tribal flag shall be displayed at all Tribal Council meetings and hearings of the Tribal Court.

Section 1-1.30 General Penalty

1-1.30.010 Enforcement. The Hopland Band of Pomo Indians, its agencies, departments and authorized officers, agents or employees may bring an action for declaratory and injunctive relief in the Hopland Tribal Court for the purposes of enforcing the provisions of this Tribal Code except as against the Tribe, the Tribal Council, or any member of the Tribal Council acting within his or her official capacity. The Hopland Tribal Court shall have jurisdiction over any civil cause of action regarding the validity, interpretation and enforcement of the provisions of this Tribal Code initiated by the Hopland Indian Tribe, its agencies, departments and authorized officers, agents or employees. The Tribal Court shall have no jurisdiction to hear any matter filed against the Tribe, the Tribal Council, or any member of the Tribal Council acting within his or her official capacity.

Section 1-1.40 Claims for Money or Damages

1-1.40.010 Presentation of Claims as Prerequisite to Filing Suit. All claims against the Tribe or any agency, department, or enterprise for money or damages shall be presented to the Tribal Council and acted upon as a prerequisite to suit thereon as further provided in this section. All such claims shall be presented on a form approved by the Tribal Council for that purpose within six (6) months from the date that the act or inaction that gave rise to the claim first occurred. Any claim not submitted within the six month period as provided herein shall be forever barred.

1-1.40.020 Claims Subject to Filing Requirements. Claims subject to the filing requirements of this section shall include, but not be limited to, all claims by all persons, corporations, governments, special districts, associations, or entity of every kind for money

damages or equitable relief arising from personal injuries, property damage, both real and personal, and breaches of contract and claims by tribal employees for fees, salaries, wages, mileage, and/or other expenses. The provisions of this section shall apply to any claim whether it relates to events, transactions or occurrences that took place prior to the effective date of the ordinance codified in this chapter.

1-1.40.030 Incorporation. Ordinance No. 2000-01-07A entitled “Tribal Claims Ordinance” is incorporated herein as though fully set forth (*See Chapter12*).

Section 1-2.10 Tribal Council Officer Duties

1-2.10.010 Chairperson: The Chairperson is the chief spokesperson for the Tribe, represents the Tribe by name and title, corresponds with other governments and entities on behalf of the Tribe and carries out the following duties:

- (A) Calls for and presides over regularly scheduled meetings of the Tribal Council (“Council”), General Membership and other meetings considered necessary to conduct Tribal business.
- (B) Coordinates with other work units and communicates directions from the Council.
- (C) Approves the agenda prepared by the Secretary three (3) days in advance when possible of the Council meetings.
- (D) Presents and explains the position of the Tribe on all matters of importance.
- (E) Delegates tasks to members of the Council and employees of the Tribe to assist in Council efforts, including but not limited to preparing reports, attending meetings, reviewing documents and implementing policies. In delegating tasks, the Chairperson shall select Council members or tribal employees who are best qualified, based on their education, training or experience, to perform the task.
- (F) Meet with and provide information to the press on issues pertaining to the Tribe.
- (G) Performs all other duties required by Tribal law.

1-2.10.020 Vice-Chairperson: The Vice-Chairperson shall assist the Chairperson in the duties of the office, carry out the duties of the Chairperson in his/her absence, and perform the following duties:

- (A) Supervise the Tribe’s Realty Specialist to ensure that all lessees/permittee are in compliance with their leases of Tribal Land, report monthly to the Tribal Council on the status of all Tribal leases and permits of Tribal Land, and carry out all Tribal Council directive pertaining to leases/permits of Tribal Land;
- (B) Ensure that the GIS/PPS Mapping System of the Reservation is in place and operational, including establishing a priority list for mapping the various areas of the Reservation, a schedule for completing the mapping and a plan/schedule for updating the system on a regular basis. The priority list, schedule and plan shall be prepared and submitted to the Tribal Council for approval within six (6) months from the date of adoption of this Code and a plan for updating the system shall be submitted to the Tribal

Council for approval annually thereafter on the anniversary date of approval of the initial plan by the Tribal Council, and

(C) Otherwise performs such other duties as is directed by the Tribal Council or as are provided by Tribal law. In addition, except as otherwise approved by the Tribal Council, the Vice-Chairperson shall be available to perform the duties of the Chairperson, any time the Chairperson is sick or otherwise unavailable to perform the duties of the Chairperson.

1-2.10.030 Secretary: The Secretary shall perform the duties of secretary to the Tribe and Tribal Council by ensuring the accurate recording of all Council meetings and decisions, certifying minutes, resolutions, ordinances and other actions of the Council, and carrying out such other responsibilities as are directed by Tribal law, including but not limited to:

(A) Reviewing the minutes of Council meetings, and ensures their accuracy prior to presentation to the Council for approval;

(B) Certifying the content and accuracy of Resolutions and Ordinances;

(C) Acting as the official custodian of all Tribal records including but not limited to:

(1) Tribal enrollment records;

(2) Original Tribal Council ordinances and resolutions;

(3) Minutes of Tribal Council meetings; and,

(4) All real property records pertaining to the Reservation;

(D) Acts as the official agent of the Tribe for purposes of service of process; and

(E) Performing the duties of a member of the Enrollment Committee as specified in the Tribe's Enrollment Ordinance. In that capacity the Secretary shall ensure that all enrollment records are kept in the Tribal Depository and will ensure that a copy of all computerized enrollment information is kept and backed up on a weekly basis to ensure that enrollment records are preserved.

1-2.10.040 Treasurer: The Treasurer shall perform the duties of treasurer to the Tribe and Tribal Council by ensure the financial integrity and safeguarding of Tribal assets, being principally responsible for performing review and oversight of fiscal functions and by performing the following duties:

(A) Being the principal signer of checks.

(B) Reviewing all financial policies and procedures and assisting the Council and Tribal Members in understanding said policies and procedures.

- (C) Directing the Chief Financial Officer to review all audit reports and advise the Council of any concerns or discrepancies.
- (D) Subject to the supervision of the Tribal Administrator overseeing the Tribal Accounting Department.
- (E) Annually reviewing and reporting to the Tribal Council on the efficiency of the Tribe's computerized accounting software and to make recommendations to the Tribal Council on the purchase, if necessary, of updates to the software.
- (F) Reviewing the Tribe's accounting procedures, on an annual basis, and making recommendations to the Tribal Council for the adoption, if necessary, of accounting procedures designed to preserve and safe guard, tribal funds and streamline accounting procedures in accordance with Generally Accepted Accounting Practices.
- (G) Ensuring, with the approval of the Tribal Council, that an annual audit is performed of all tribal funds by an independent certified public accountant and that procedures are implemented to eliminate any audit exceptions.

Section 1-2.20 Tribal Council Member Duties

1-2.20.010 Expectations of Tribal Council Members: All members of the Tribal Council are expected to:

- (A) Attend all meetings of the Tribal Council and General Membership meetings unless excused from such meetings.
- (B) Provide input on all matters coming before the Council, stating beliefs and providing alternatives and recommendations in all decision making.
- (C) Implement all final Council decisions.
- (D) Carry out assignments on behalf of the Council in a timely manner.
- (E) Serve on Tribal committees as designated by the Council.
- (F) Act in a professional and ethical manner and provide a positive community role model.
- (G) Promote cooperation and teamwork between the Council and all other work units and tribal members.
- (H) Avoid interfering with other work units, directing employees or others except as authorized by the Council.
- (I) Maintain impartial decision making attitude; keeping personal and family matters separate, in accordance with this Chapter.
- (J) Avoid personal involvement in employee matters.

(K) Uphold the Tribal Constitution and Tribal law.

Section 1-2.30 Tribal Government Organization and Roles

1-2.30.010 It is the intent of the Council in this section to clearly set forth the organizational structure of the Tribal Government, provide clear direction and authority to each work unit, and to establish consistent and effective procedures for carrying on the work of the Tribal Government.

1-2.30.020 Tribal Government Organization: The Tribal government organization shall consist of the General Membership, Tribal Council, and all subordinate officials, employees, boards, committees, and organizations chartered or appointed by the Council or any designee thereof.

1-2.30.030 Tribal Council Responsibility: The Council is responsible for all Legislative, and Executive functions, and those Judicial functions permitted under the Tribe's Constitution. The Council shall appoint and employ such subordinate employees, committees and boards as are reasonable and necessary to assist in carrying out its responsibility.

1-2.30.040 Tribal Government Roles: The following roles shall be assigned by the Tribal Council for the overall management of the affairs of the Tribe:

(A) Public Policy and Legislation: The Council is responsible for carrying out all legislative authority not reserved to the General Membership in the Tribe's Constitution. The Council shall reserve all legislative authority to give voice to public policy and enact laws to carry out the duties of the Tribal Government and regulate the affairs of the membership, where appropriate, and any other authority not specifically delegated by Tribal Law. The Council has enacted and shall regularly review and revise as needed, an ordinance to guide the conduct of its business and that of its members.

(B) Executive: The Council shall establish the position of Tribal Administrator to assist the Tribal Council, and Chairperson in carrying out the executive functions of the Tribal Government, and shall delegate by ordinance to this position the responsibility to assist the Council, and Chairperson in their work as needed, to implement Tribal Laws and carry out the administrative functions of the Tribal Government.

(C) Judicial: Pursuant to the provisions of the Tribal Constitution, the Council has enacted an ordinance to establish a Tribal Court, a position of Chief Judge and such Associate Judges and assistants as it deems appropriate. The Judge and/or Council has promulgated rules of pleading practice, and procedure for the orderly and efficient operation of the Court as provided by such Ordinance. The Judge shall regularly review and amend these rules as needed.

(D) Policy Advisory: To allow maximum participation and input from Tribal members in the Tribal government, provide for increased Tribal member knowledge of Tribal business and ensure ongoing knowledge of Tribal needs and opportunities, the

Council shall appoint such advisory committees for any area of concern where there shall be either temporary or ongoing need of advice to the Council. Advisory committees shall serve at the pleasure of, and report to, the Council in accordance with their charter.

(E) Economic Enterprise: When deemed appropriate, for the purpose of meeting important Tribal Goals, the Council shall charter, by ordinance, subordinate organization and boards for the purpose of carrying out business development and management activities outside the Tribal Government structure. Such boards shall be appointed by, and report to, the Council as provided by their charter.

(F) Other Important Purposes: Other subordinate organizations may be chartered to carry out any function necessary to accomplish Tribal goals, whenever it is deemed by the Tribal Council that the activity to be carried on by an organization is of sufficient importance to require separation from the day-to-day affairs of Tribal Government. Subordinate organizations, shall be chartered by ordinance and shall report to the Council.

1-2.30.050 Plan for Organizational Development: The Council shall adopt a Plan for Organizational Development to serve the following purposes:

(A) To ensure the organization of the Tribal Government (“Tribal Organization”) is responsive to the people it serves.

(B) To focus tribal resources on delivery of services.

(C) To ensure the consistent implementation of all legislative acts as adopted by the Council.

(D) To provide a framework for future growth of the Tribal Organization.

(E) To ensure the Tribal Organization efficiently uses all human and financial resources, integrates programs and services, has effective coordination and avoids duplication.

(F) To clearly designate authorities within the Tribal Organization.

(G) To ensure the consistent implementation of all federal contract laws and other applicable laws as required and approved by the Tribal Council.

1-2.30.060 Tribal Policy Management Standards. The policies of the Tribal Organization shall be organized and maintained according to the following standards:

(A) Components of Tribal Policy: Tribal Policies shall be separated into the following components, which are listed in order of precedence.

(1) Tribal Organic Documents: The organic document of the Tribe is the Tribe’s Constitution, approved by the voting members of the Tribe. This document sets out the policies of the membership and confers governing

powers to the Council. Additional guidance is provided by the Federal laws applicable to the Tribe or to Indian Tribes in general.

- (2) Tribal Council Ordinances: Pursuant to the Tribal Constitution, all laws of the Tribe regulating persons or property within the Tribe's jurisdiction shall be embodied in ordinances.
 - (3) Tribal Council Resolutions: All final decisions of the Council on matters of general and permanent importance to the members of the Tribe shall be embodied in resolutions.
 - (4) Tribal Code: A document containing, in subject matter order, the current laws enacted by the Council.
 - (5) Tribal Court Opinions: Written opinions of the Tribal Court that have been certified by the Chief Judge as having precedence.
 - (6) Tribal Regulations: Implementing policies for and interpretations of Tribal laws as established by the Tribal Council, and Tribal Gaming Commission exercising delegated authority from the Council, including emergency policies established in the absence of Tribal ordinance and resolutions to regulate the activities of Tribal government employees.
 - (7) Tribal Manuals: Procedures and guidelines established to guide the day-to-day operations of staff. Such manuals shall include forms and information to facilitate efficient operations and continuity of services.
 - (8) Tribal Attorney Opinions: Opinions of the Tribal Attorney on issues of law of significant importance to the Tribe. Such opinions shall be certified by the Tribal Attorney to the Secretary for filing and codification in the Tribal Depository.
- (B) Policy Maintenance Standards: Policies of the Tribe shall be maintained in accordance with the following standards:
- (1) All Tribal policies shall be maintained in a Tribal Depository. Portions of the Depository may be available at other locations as appropriate.
 - (2) Policies in the Tribal Depository and at other separate locations shall be maintained in a current state at all times.
 - (3) Policies shall be protected to maintain their integrity for reliance thereon by the Tribal Organization.
 - (4) Policies within the Tribal Depository shall be made available for viewing by any Tribal member, any Tribal employee upon reasonable request, and any other person upon authorization by the Chairperson or the Secretary.

(C) Availability of Laws and Policies: Copies of the Tribe's Constitution, Tribal Code, Tribal Court opinions, Tribal Regulations, Tribal Council Resolutions, Tribal Manuals and Opinions of the Tribal Attorney shall be kept in the Tribe's Administrator's Office and shall be available for use by all Tribal Officials, Tribal employees, members of the Tribe, and non-tribal members doing business with the Tribe.

Section 1-2.40 Tribal Council Meeting and Enactment of Ordinances

1-2.40.010 Regular Monthly Meetings: Time and Place. Regular monthly meetings of the Tribal Council shall be held as required by the Tribe's Constitution.

1-2.40.020 Special and Emergency Meetings: Time and Place: Notice.

(A) Special Council meetings may be called at any time by the Chairperson or by four (4) members of the Tribal Council by directing the Tribal Secretary ("Secretary") to deliver or mail a written notice to each Council member. Such notice shall be delivered personally or in writing forty-eight (48) hours before the time of such meeting as set forth in the notice. The notice shall set forth the time and place of the special meeting (which may be at a time and place different from the regular meeting time or place) and the business to be transacted. A copy of the notice shall also be posted at or near the door to the Tribal Council office. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any Council member who files with the Secretary of the Tribal Council a written waiver of notice. Such waiver may be given by fax transmission. The written notice may also be dispensed with as to any Council member who is actually present at the meeting at the time it convenes and states for the record that he or she waives notice.

(B) Emergency meetings of the Tribal Council may be called at any time by the Chairperson or any four (4) members of the Tribal Council provided, however, that prior to conducting the emergency meeting as the first order of business, the Tribal Council determines by majority vote that an emergency situation exists. At least one hour prior to the holding of the meeting, telephonic or written notice, including e-mail or fax transmission of the day, time, and place of the meeting is given to each Council member. Council members may appear at the emergency meeting in person or by telephone. The Secretary shall make sure that a speaker-phone is available at the location of the emergency meeting sufficient in quality to allow Council members to participate in the meeting by telephone. It shall be the Chairperson's responsibility to make sure that telephone conferencing is available for the emergency meeting sufficient to allow all Council members to participate in the meeting by conference call. The only item or items to be discussed at an emergency meeting shall be the "emergency situation" that gave rise to the meeting. For purposes of this section, "emergency situation" means any of the following: (a) work stoppage or other activity which severely impairs the public health, safety, or both, as determined by a majority of the members of the Tribal Council; (b) a crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the Tribal Council; (c) a lawsuit filed against the Tribe, its officers, agents, or employees that seeks a temporary restraining order, the granting of which would interfere with the ability of the Tribe to govern itself or which seeks to seize

or attach tribal assets, as determined by a majority of the Tribal Council; and (d) any other matter which a majority of the Tribal Council determines will have a substantially adverse impact on the economic viability of the Tribe.

- (1) In the event that telephone services are not functioning, because of disaster, the notice requirements of this section shall be deemed waived, and the Tribal Secretary shall make a good faith attempt to contact each Council member by any means possible.
- (2) The minutes of an emergency meeting called pursuant to this section, a list of persons the Tribal Secretary notified or attempted to notify a copy of the roll call vote, and any actions taken at the meeting shall be posted for a minimum of ten (10) days on the door of the Tribal Council Office, printed in the Tribal Newsletter and sent by mail to each Tribal Council member, as soon after the meeting as is possible.

1-2.40.030 Open to the Public: Exception. All regular and special meetings of the Council shall be open to members of the Tribe and invited guest of the Council; provided, however, the Council may hold executive sessions during a regular or special meeting, from which all members of the public may be excluded, for the purpose of considering the matters set forth in Section 2.02.040 of this Ordinance.

1-2.40.040 Executive Sessions. A. The Tribal Council may exclude all persons from a meeting and hold a closed session to discuss or consider any of the following:

- (A) Whether, based on existing facts and circumstances, a closed session is necessary or authorized by this Ordinance.
- (B) The appointment, employment, evaluation, performance, disciplinary action of or dismissal of a Tribal employee or to hear complaints or charges brought against such employee by another person or employee. The Tribal Council may also exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the Tribal Council.
- (C) To confer with its negotiator prior to the purchase, sale, exchange, or lease of real property, including property held in trust for the Tribe, and to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. For purposes of this section “lease” includes renewal or renegotiation of a lease. Provided, however, prior to the closed session, the Tribal Council shall hold an open and public meeting in which it discloses that it is meeting with its negotiator to purchase, sell, exchange or lease real property, or properties and the person or persons who will be negotiating on behalf of the Tribe.
- (D) To confer with its attorney regarding the introduction of pending legislation or to confer with or received advice from its attorney regarding pending or threatened litigation.

(E) To confer with federal, state, or Tribal law enforcement personnel to discuss an ongoing criminal investigation or discuss matters posing a threat to the security of Tribal lands, buildings, or a threat to the public right of access to public services or public facilities.

(F) To confer with its attorney or insurance agent/adjuster to discuss a pending or threatened administrative claim for the payment of private and public liability losses or workers compensation liability or an unemployment claim.

(G) To confer with its negotiator over the terms and conditions of any contract proposed by any developer for the financing, construction or operation of any economic development project proposed for the Reservation.

(H) To confer with the Tribe's designated representatives and/or chief negotiator regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its union or other represented and unrepresented employees and for represented employees any other matter within the scope of representation provided for in the Tribe's Tribal Labor Relations Ordinance.

(I) No member of the Council, employee of the Tribe, or any other person present during an executive session of the Council shall disclose to any person the content or substance of any discussion which took place during such executive session unless the Council shall, by a majority vote, authorize the disclosure of such information. Any violation of this subsection shall be grounds for removing the Council member from office as provided in the Tribe's Constitution or for taking disciplinary action, including discharge, against a tribal employee. The Chairperson of the Tribal Council shall bring such charges of removal for a willful violation of this Section by a member of the Council. If the Chairperson has violated this Section, then the Vice-Chairperson shall bring such charges against the Chairperson.

(J) The Tribal Council shall have the right during all executive sessions to have: 11) legal counsel present for the purpose of obtaining legal advice on any item discussed in executive session, and any employee of the Tribe if the employee's expertise is necessary to assist the Tribal Council in reaching a decision on the issue that prompted the holding of the executive session.

(K) The Tribal Council shall announce publically any of the following actions taken in an executive session and the vote or abstention on each issue:

- (1) Any fiscal approval of any agreement concluding real estate negotiations.
- (2) Any final approval given to its legal counsel to defend or initiate litigation or seek or refrain from seeking appellate review or relief, or to enter a case as an amicus curiae or to settle pending or threatened litigation.
- (3) Any final approval of any personnel action resulting in the exoneration, discipline or termination of an employee.

(4) Any final approval of any union or personnel contracts.

(L) The Secretary of the Tribal Council shall, during an executive session, keep a separate minute book for executive session items. The executive session minute book shall only be available for inspection by members of the Tribal Council. The Secretary shall only enter in the executive session minute book a record of who was in attendance, the topic discussed and any decisions made on each topic if more than one topic is discussed.

(M) In addition to the penalties set forth in subsection (9) above, the Tribal Council may authorize the Tribal Attorney to initiate an action in any court of competent jurisdiction for the purpose of obtaining an injunction, including money damages, to prevent the disclosure of any information discussed in an executive session.

1-2.40.050 Presiding Officer. The Chairperson shall be the presiding officer at all meetings of the Council. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary of the Council shall call the Council to order, whereupon a temporary presiding officer shall be elected by the Council members present to serve until the arrival of the Chairperson or Vice-Chairperson or until adjournment. Wherever in this ordinance the term Chairperson is used, it shall apply equally to the presiding officer as set forth, in this section.

1-2.40.060 Powers and Duties of the Presiding Officer.

(A) Participation. The Chairperson may not move, second, or vote on any issue or matter before the Council, except in the case of a tie vote of the Council.

(B) Signing of documents. The Chairperson shall sign all ordinances, resolutions, contracts, and other documents necessitating his/her signature which were adopted in his/her presence, unless he/she is unavailable, in which case the signature of the alternate presiding officer present at the meeting in which said ordinance, resolution, contract or other document was approved by the Council may be used. The signature of the Chairperson shall be attested to by the Tribal Council.

(C) Sworn testimony. The Chairperson may require any person addressing the Council to be sworn by the Secretary of the Tribal Council as a witness and to testify under oath, and the Chairperson shall so require if directed to do so by a majority vote of the Council. The oath shall be as follows: "I, _____, do solemnly swear under penalty of perjury that the testimony I am about to give is the truth and nothing but the truth."

1-2.40.070 Agenda. All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Council at a regular meeting shall be delivered to the Tribal Secretary not later than five (5) days preceding the meeting. The Secretary of the Tribal Council shall prepare the agenda of all such matters. The agenda and all supporting agenda documents shall be delivered to the Secretary by 12:00 p.m. on the Thursday, three (3) business days prior to any regularly scheduled meeting to which the agenda pertains and it shall be made available to tribal members for inspection and copying at least two days prior to the regularly scheduled meeting to which the agenda pertains. Any

employee of the Tribe wishing to place an item on the agenda shall complete a “Tribal Council Agenda Summary” form setting forth: (1) a brief summary of the issue to be presented; (2) an estimated time for presentation; (3) the recommended solution and (4) a recommended motion. The Tribal Council Agenda Summary shall be in a form adopted from time-to-time by resolution of the Tribal Council. Any item or supporting documentation submitted to the Secretary for inclusion on the agenda after the time periods set forth in this Section shall not be included on the agenda but shall be placed on the agenda for the next meeting, provided, however, if the Secretary determines that items constitute an emergency item as defined below, the item will be added to the agenda but will only be considered if the Council, by a majority vote, votes to hear the items.

(A) As used in this section, the term emergency item shall have the same meaning as “emergency” as defined in Section 1-7.20.120 below.

(B) When it is in the best interests of the Tribe or its citizens, agenda items may be added at any time at the request of any Council member, the Chairperson, Tribal Administrator, or Tribal Attorney.

1-2.40.080 Order of Business. The business of the Council and the order of its agenda shall be in such form as the Council may from time to time adopt by resolution.

1-2.40.090 Correspondence.

(A) Availability to the public. Correspondence addressed to the Council and received by the Tribal Secretary or any other officer or employee of the Tribe shall not become a public record nor be read aloud at a Council meeting unless requested by a majority vote of the Council.

(B) Authority of the Secretary of the Tribal Council. The Secretary of the Tribal Council or his/her designee is hereby authorized to open and examine all mail or other written communications addressed to the Council and to give them immediate attention to the end that all administrative business referred to in such communications, and not necessarily requiring Council action, may be acted upon between Council meetings; provided, however, mail addressed to individual Council members and stamped personal or confidential shall not be opened without the consent of the Council member to whom the correspondence is addressed.

1-2.40.100 Minutes: Preparation and Changes. The Secretary of the Tribal Council shall be responsible for the preparation of the minutes of Tribal Council meetings, and any directions for changes in the minutes shall be made only by majority action of the Council. At a minimum, the minutes shall include the time the meeting commenced or adjourned, the names of persons that were present at the meeting, a brief description of each item discussed at the meeting, a tally of the votes in favor, against or abstaining that were cast at the meeting. The minutes for the regular meeting shall be prepared for the next regular meeting and, if approved by the Council, shall be published in the newsletter.

1-2.40.110 Minutes: Reading. Unless the reading of the minutes of a Council meeting is ordered by a majority vote of the Council, such minutes may be approved without reading if the Secretary of the Tribal Council has previously furnished each member with a copy.

1-2.40.120 Entry of Protests. Any Council member shall have the right to have the reasons for his/her dissent from, or his/her protest against, any action of the Council entered in the minutes in the following manner: “I would like the minutes to show that I am opposed to this action for the following reason....”

1-2.40.130 Rules of Debate.

(A) Getting the floor. Every Council member desiring to speak at a Council meeting shall first address the Chair, gain recognition by the Chairperson, and confine himself/herself to the question under debate, avoiding personal insults, innuendo, and indecorous language.

(B) Questioning the staff. Every Council member desiring to question Tribal staff shall, after gaining recognition by the Chairperson, address his/her questions to the Tribe’s Administrator, Fiscal Officer, Attorney, Commissioner or any other employee of the Tribe who shall be entitled either to answer the inquiry himself/herself or to designate a member of his/her staff for such purpose.

(C) Interruptions. A Council member, once recognized, shall not be interrupted when speaking unless called to order by the Chairperson, unless a point of order or personal privilege is raised by another Council member, staff, or unless the speaker chooses to yield to a question by another Council member. If a Council member is called to order while speaking, he/she shall cease speaking until the question of order is determined, and, if determined to be in order, he/she may proceed. Members of the Tribe’s staff, after recognition by the Chairperson, shall hold the floor until the completion of their remarks or until recognition is withdrawn by the Chairperson.

(D) Points of order. The Chairperson shall determine all points of order, subject to the right of any Council member to appeal to the Council. If an appeal is taken, the question shall be, “Shall the decision of the Chairperson be sustained?” A majority vote shall conclusively determine such question of order.

(E) Points of personal privilege. The right of a Council member or staff to address the Council on a question or personal privilege shall be limited to cases in which his/her integrity, character, or motives are questioned or where the welfare of the Council is concerned. A Council member or staff raising a point of personal privilege may interrupt another Council member, staff member or person who has the floor only if the Chairperson recognizes the privilege.

(F) Privilege of closing debate. The Council member moving the adopting of an ordinance, resolution, or motion shall have the privilege of closing debate.

(G) Limitation of debate. No Council member shall be permitted to speak more than once upon any particular subject until every other Council member desiring to do so shall have spoken.

1-2.40.140 Rules of Order. In the event of questions as to procedure not set forth in this Ordinance for Council meetings, the Council shall be guided by the rules of general parliamentary procedure but such rules shall not be binding on the Council. A majority vote of the Tribal Council shall decide any question of procedure not set forth in this Ordinance.

1-2.40.150 Failure to Observe Rules of Order. Rules adopted to expedite the transaction of the business of the Council in an orderly fashion shall be deemed to be procedural only, and the failure to strictly observe such rules shall not affect the jurisdiction of the Council or invalidate any action taken at a meeting which is otherwise held in conformity with law.

1-2.40.160 Rules of Decorum for Council and Staff.

(A) Council members. While the Tribal Council is in session, the members shall preserve order and decorum, and a member shall neither, by conversation, cell phone use, or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disturb any member while speaking, nor refuse to obey the orders of the Chairperson. Members of the Council shall not leave the meeting while it is in session without first obtaining the permission of the Chairperson or Secretary.

(B) Employees. Members of the Tribe's staff and employees shall observe the same rules of order and decorum as are applicable to the Council.

(C) Persons addressing the Council. Any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the Chairperson and, if such conduct continues, may, at the direction of the Chairperson, upon approval of the Tribal Council, be ordered to leave the audience and Council Chambers for the duration of that Council meeting.

(D) Members of the audience. Any such persons in the audience who engages in disorderly conduct, such as clapping of the hands, stamping of the feet, whistling, using profane language, yelling, or similar demonstrations which conduct disturbs the peace and good order of the meeting, or who refuses to comply with the lawful orders of the Chairperson, upon instructions from the Chairperson, with the approval of the Tribal Council, shall be requested to leave. If the person refuses, the Council shall recess and the Chairperson shall call the Tribal Police and/or Sheriff to have the person removed from the meeting room.

1-2.40.170 Rules of Decorum for Public.

(A) Manner. Each person desiring to address the Council shall state his/her name and address for the record, state the subject he/she wishes to discuss, state whom he/she is representing if he/she represents an organization or other person(s), and unless further time is granted by a majority vote of the Council, shall limit his/her remarks to

five (5) minutes. All remarks shall be addressed to the Council as a whole and not to any member thereof.

- (1) No question shall be asked of a Council member or of a member of the Tribe's staff without being recognized by the Chairperson.
- (B) Spokesman for groups of persons. In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the Chairperson to request that a spokesman be chosen by the group to address the Council and, in the event additional matters are to be presented by any other member of such group, to limit the number of such persons addressing the Council.
- (C) After motions are made and hearings are closed. After a motion has been made or a public hearing has been closed, no member of the public shall address the Council from the audience on the matter under consideration without first securing permission to do so by a majority vote of the Council.

1-2.40.180 Motions. A motion by any member of the Council may not be considered by the Council without receiving a second.

1-2.40.190 Voting Procedure.

- (A) Questions to be stated. Upon moving the question, the Chairperson shall call for the vote which shall be taken from the chair farthest to the left of the Chairperson, then farthest to the right of the Chairperson, and so alternating back and forth. The Chairperson shall vote last in the case of a tie.
- (B) Registration of votes. Any vote of the Council, including a roll call vote, may be registered by the members by answering "yes" for an affirmative vote or "no" for a negative vote upon the name of the Council member being called by the Secretary of the Council. The roll for voting shall be taken as provided in subsection (a) of this section.

1-2.40.200 Voting Procedure: Conflicts of Interest Disqualification. Any Council member who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state, or have the Chairperson state, the nature of such disqualification in open meeting. When no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Council member affected, be decided by the other Council members. A Council member who is disqualified by reason of a conflict of interest in any matter shall not remain in his/her seat during the debate and vote on such matter but shall request and be given the permission of the Chairperson to step down from the Council table and leave the Chamber, provided however, if during the debate on the issue for which a Council Member declared a conflict, any remarks are made by any person against the Council Member or his/her family, the Chairperson shall invite the Council Member back into the Council Chamber, tell him/her of the remarks made and recognize and allow the Council Member to respond to the remark. A Council member stating such disqualification

shall be counted as a part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

(A) For purposes of this Section, a Council member shall have a conflict of interest when a decision of the Council will have a direct effect on:

- (1) The Council member's natural mother, father, step-father, step-mother, brother, sister, step-brother, step-sister, children, the Council member's spouse, or live-in-partner.
- (2) Any business in which the Council member has a direct or indirect investment.
- (3) Any real property in which the Council member owns an interest.
- (4) Any person who has been a source of income to the Council member of \$250.00 or more within the 12 months immediately preceding consideration of the issue that will result in a decision.
- (5) Any other interest brought to the Council's attention which the Council by majority vote determines is a conflict of interest.
- (6) Notwithstanding any provision in this Section 2.02.200 to the contrary, nothing in this Section shall prohibit any Council member from voting for any other Council member for the position of Chairperson, Vice-Chairperson, Secretary, and/or Treasurer or for voting for or against the removal of any Council member.
- (7) If a majority of the Tribal Council is prohibited from voting on an issue because of a conflict of interest, the conflicted members of the Council shall draw lots for the purpose of determining which members of the Council shall hear the agenda item for purposes of establishing a quorum. The Council members possessing a conflict shall not vote on the issue but shall abstain. Any motion pending before the Tribal Council shall not fail as a result of an abstention.

1-2.40.210 Failure to Vote. No Council member shall abstain from voting. Every Council member shall vote unless disqualified by reason of a conflict of interest.

1-2.40.220 Tie Votes. Tie votes shall be lost motions and may be reconsidered.

1-2.40.230 Changing Votes. A Council member may change his/her vote only if he/she makes a timely request to do so immediately following announcement of the vote by the Tribal Secretary and prior to the time the next item in the order of business is taken up.

1-2.40.240 Reconsideration of Actions. A motion to reconsider any action taken by the Council may be made only on the day such action was taken or as the first item of business at the next scheduled Council meeting following the meeting that such action was taken. It may

be made either immediately during the same session or at a recessed or adjourned session thereof. Such motion may be made only by one of the Council members who voted with the prevailing side. The provision of this section shall not be construed to prevent any Council member from taking or remaking the same or any other motion at any subsequent meeting of the Council if new information or facts are presented to the Council at the subsequent meeting pertaining to the motion.

1-2.40.250 Reading of Ordinances. At the time of the adoption of an ordinance, it shall be read in full unless, after reading of the title thereof, the further reading thereof is waived by the unanimous consent of all the Council members present. The waiver of the reading of such ordinance shall be accomplished by regular motion adopted by a unanimous vote of the Council members present.

1-2.40.260 Ordinances, Resolutions and Motions. Official actions of the Council shall be in the form of motions, resolutions and ordinances.

(A) Motions. Motions shall be used to express decisions of the Council on routine questions or matters of temporary importance or to give instructions to the staff and shall be moved, seconded, and adopted by a voice vote unless a roll call is requested by a Council member or by unanimous consensus of the Council, adopted by a hand vote.

(B) Resolutions. Resolutions shall be used to express decisions of the Council of a permanent or lasting nature and shall be introduced, seconded, and adopted by a roll call vote. Resolutions may be used to transfer appropriate funds within the budget or to appropriate funds. All resolutions of the Tribal Council shall be bound, codified by titles, and indexed in an official resolution book of the Tribal Council and shall be kept and updated by the Secretary as the custodian of the Tribe's records.

(C) Ordinances. Ordinances shall be used to adopt formal policy and laws of the Tribe, in the exercise of the Tribe's sovereign powers, and in other instances required by Tribal or Federal law. The manner of introduction and adoption shall be as provided in subsection (b) above. Each ordinance shall have a title in conformity with the following: "Ordinance No. _____. An Ordinance of the Tribal Council of the Hopland Band of Pomo Indians." Each ordinance shall contain the following enacting clause: "The Tribal Council of the Hopland Band of Pomo Indians does ordain and follows:" Ordinances shall be signed by the Chairperson of the Tribal Council and attested to by the Tribal Secretary. All Ordinances of the Tribal Council shall be bound, codified by titles and indexed in an official ordinance book of the Tribal Council. Within sixty (60) days from the date of adoption of this code, the Tribal Attorney shall prepare, subject to the Tribal Council's approval by resolution, a list of titles for the Tribal Council's resolutions and ordinances for the purpose of codifying said resolutions and ordinances. Within sixty (60) days from the adoption of said resolution, the Secretary of the Tribal Council shall codify all Ordinances of the Tribe under the titles established by the Tribal Council. Only the substantive provisions of Ordinances shall be codified. The Code shall contain an index and shall be available for inspection and copying at such times, places, and at such costs as the Tribal Council shall, from time to time, establish by resolution. The Tribal Council shall have the authority to modify existing titles or create

new titles for the purpose of repealing, amending or enacting new resolutions or ordinances.

1-2.40.270 Dangerous Instruments. No person may enter the chambers of the Tribal Council or any place where the Council is in session, with any firearm, weapon, or explosive device of any nature. The provisions of this section shall not apply to authorized Tribal law enforcement officers or to those persons authorized by Tribal law or the Penal Code of the State of California to carry such weapons.

Section 1-3.10 Purpose. The purpose of this Chapter is to set forth specific standards governing the conduct of all members of the Council, Committees, employees and officials who work for the Tribe.

Section 1-3.20 Background and Intent. The Council has determined that it is in the best interest of the Tribe that clear direction be given with respect to the ethical conduct of all persons who serve the Tribe. This Chapter is intended to guide the actions of all such persons and provide guidance for the conduct of business, to protect the interests of Tribal members, and to protect the reputation and integrity of the Tribal Government.

Section 1-3.30 General Police Statement. Officials of the Tribe, including, but not limited to, Council Members, Tribal Administrator, Judges, Tribal Attorney, Fiscal Officer, Officials of the Tribe, Committee members and employees shall not engage in behavior involving a conflict of interest or commit any act involving actual or apparent impropriety, as defined herein.

Section 1-3.40 Conflict of Interest. For purposes of this Chapter, a conflict of interest, means an undertaking by a Council Member, Official, employee, or Committee member on behalf of the Tribe where that person has, or may foreseeably develop, a personal or financial interest distinct from and adverse to the Tribe. Actions prohibited as conflicts of interest under this Ordinance include, but are not limited to the following;

1-3.40.010 Council members, employees, and Officers of the Tribe shall not make or participate in making the decision to employ any relative by blood or marriage on any basis other than merit and fitness for the position, in accordance with the Tribe's TERO Ordinance.

1-3.40.020 Council members, Judges, and Attorneys shall not, unless authorized by the Council, voluntarily represent any party before any court, or state agency in proceedings where the Tribe is a party or has an interest.

1-3.40.030 Council members, employees, and Officers shall not engage in outside activity or employment not compatible with the full and proper discharge of their duties and responsibilities.

1-3.40.040 Officers and employees shall not engage in contracting or procurement arrangements where they have a personal or financial interest, unless first making full disclosure to the Tribal Administrator and the Tribal Administrator receiving authorization to pursue such arrangement from the Tribal Council.

Section 1-3.50 Actual or Apparent Improprieties.

1-3.50.010 Those actions by Tribal Council members, an Official or employee of the Tribe or members of any Tribal Committee involving illegal acts while in the Tribe's service, acts involving an abuse of power, dishonest conduct or that would do a disservice to the Tribe's reputation are prohibited. These acts include but are not limited to the following:

- (A) Functioning as an official or employee of the Tribe while intoxicated or under the influence of illegal or incapacitating drugs;
- (B) Misappropriation or misuse of Tribal funds;
- (C) Concealing, removing, mutilating or destroying Tribal records or documents;
- (D) Committing perjury or fraud;
- (E) Involvement in actions or activities that bring discredit or disrespect on the Tribe;
- (F) Representing oneself as acting on behalf of the Tribe without authorization to do so;
- (G) Knowingly misrepresenting the Tribe or a position the Tribe has taken to the public or any third person;
- (H) Soliciting or accepting, directly or indirectly, gifts, gratuities, favors, entertainment, loans, kickbacks or anything of value from a person, organization seeking to obtain contractual or other business with the Tribe, or having interests that may be substantially affected by the performance or nonperformance of the Official or employee's duty, with the following exceptions: ceremonial and customary gifts given to dignitaries; food and refreshments of a nominal value in the ordinary course of a luncheon or dinner meeting; personal achievement awards for meritorious service; unsolicited advertising or promotional material of nominal value; loans on customary terms to finance proper and usual activities on an equal basis as any other enrolled member of the Tribe; gifts from family members.
- (I) Using one's position to coerce, threaten or intimidate a person or group to provide financial benefit or other personal gain to oneself or another person with whom one has family, business or financial ties, or any other purpose;
- (J) Using one's official title to conduct personal business;
- (K) Knowingly making public any subject matter of a confidential nature received in connection with one's duties as an official or employee, including but not limited to: matters discussed during Council executive session; matters protected as confidential under federal, state or Tribal law; information given to a Tribal official or employee with the reasonable expectation the information would be kept confidential;
- (L) Engaging in improper conduct or gross neglect of duty, as defined in the Tribe's Constitution or Tribal laws; and
- (M) Violating any Tribal, federal or state criminal law.

1-3.50.020 Council members accused of violating the prohibitions set out under this section shall have the matter determined by the Council, subject to the following procedures:

- (A) Any Tribal Member, including members of the Council, or any Tribal Official, may present an accusation in writing alleging that particular Council Member violated the prohibitions of this Chapter. The accusation must be filed with the Secretary of the Tribal Council and personally served on the Council member at a regular Council meeting.
- (B) The Council shall hear the matter in regular session at the next regular Council meeting after receiving the accusation, provided that the hearing may be extended beyond thirty (30) days if any party, including Council, requires additional time to gather necessary information.
- (C) The accuser shall present evidence and witnesses to support their accusation.
- (D) The Council, or delegated party, may conduct an independent investigation, and enter evidence and witness testimony into the record during the actual hearing.
- (E) The accused Council Member shall have the right to confront witnesses, challenge evidence, and offer witnesses and evidence in his or her own behalf.
- (F) Witnesses and evidence may be presented informally provided, the rights of the accused Council Member are protected in a manner consistent with the Tribe's Constitution.
- (G) The Council shall render a determination in writing in a timely manner, including its evidentiary findings, which must be approved by at least five (5) Council members voting, provided the Council can request that further information be produced prior to rendering a determination.
- (H) If the Council determines the accused Council Member has violated the prohibitions set out in this section, Council shall choose the sanction deemed appropriate, including reprimand, censure (published in the Tribe's Newsletter), and directing the Chairperson or in the case of the Chairperson the Vice-Chairperson, to prepare and serve formal charges of removal in accordance with the provisions of the Tribe's Constitution. To be valid and binding, the sanction must be approved by at least five (5) Council members voting on the issue.
- (I) The Tribal Court shall hear appeals of the issuance of such sanctions by the Council, provided, however, the Courts' jurisdiction in such matters is limited to determining whether the action taken was arbitrary and capricious, in violation of the Tribe's Constitution or the Indian Civil Rights Act.
- (J) The appeal must be filed within thirty (30) days of the Council's determination.

(K) The evidentiary findings of the Council shall be accepted by the Court as final, unless the Court finds that such findings are arbitrary and capricious.

1-3.50.030 Sanctions Regarding Tribal Personnel: Any Tribal employee, with the exception of the Tribal Administrator violating the prohibitions set out under this section shall be subject to disciplinary action by the Tribal Administrator, which may include immediate termination of employment if circumstances warrant, provided, however, the Council shall determine whether the Tribal Attorney's employment shall be terminated. If the Tribal Administrator violates the prohibitions set out under this section, he or she shall be subject to disciplinary action by the Council, which may include immediate termination of employment if circumstances warrant. With the exception of the Tribal Attorney, employees disciplined according to this section shall be disciplined and have recourse to the appeal or grievance procedures set out in the Tribe's Personnel Policy and Procedure Manual.

1-3.50.040 Funds and Equipment: Tribal officials and employees entrusted with Tribal funds or equipment for carrying out Tribal business shall be subject to the following requirements and procedures, in order to provide a uniform system and to avoid actual or apparent impropriety.

(A) Funds: Tribal officials and personnel shall be held personally accountable and liable for Tribal monies entrusted to their control in the performance of official Tribal duties.

- (1) Tribal funds withdrawn for specific authorized purposes by a Tribal official or employee shall be used for those specific purposes only.
- (2) In all cases, Tribal funds not expended for authorized purposes must be repaid by the responsible Tribal official or employee within five (5) working days after the date on which such funds were to have been expended.

(B) Equipment: Tribal officials and personnel shall be held personally accountable and liable for all equipment entrusted to them in the performance of Tribal business.

- (1) Tribal officials and personnel shall not use, or authorize the use of, tribally owned or leased vehicles and other transportation equipment for purposes other than those officially authorized.
- (2) Tribal officials and personnel shall not use, or authorize the use of, any tribally owned or leased equipment for other than purposes officially authorized.

Section 1-4.10 Purpose. The purpose of this Chapter is to form a more efficient and cohesive government through the appointment of committees or boards by the Tribal Council. For purposes of this Chapter the word “board” shall mean the same as the word “committee.” All Committees will be regulated by this Chapter and the relevant provisions of the Tribal Government Title, except that where a Committee is chartered by a specific Ordinance, the specific provisions of that Chapter will govern where those provisions differ from this Title 2 and this Chapter.

Section 1-4.20 General Policy. The committees established pursuant to this Chapter are to assist the Tribal Council in carrying out its responsibilities, to provide quality services to the Tribal membership and to develop, maintain, and protect the assets and interests of the Tribe. Each committee is to:

1-4.20.010 Act in an advisory capacity to the Tribal Council in recommending policies and procedures, identifying needs, and developing priorities for the Tribe;

1-4.20.020 Report monthly to the Council on problems, activities and other relevant information;

1-4.20.030 Report annually to the General Membership on activities; and

1-4.20.040 Undertake any other duties and responsibilities as developed and approved by the

1-4.20.050 Council.

Section 1-4.30 Definitions. The following terms shall have the following meanings:

(a) “*General Membership*” means the General Membership of the Tribe.

(b) “*Tribal Council*” means the Tribal Council of the Hopland Band of Pomo Indians.

(c) “*Tribe*” means the Hopland Band of Pomo Indians.

(d) “*Standing Committee*” means a committee created to fulfill ongoing functions on behalf of the Council on a more or less permanent basis.

(e) “*Ad-hoc Committee*” means a committee created to fulfill a specific short-term function on behalf of the Council, and which shall be dissolved upon completion of that function.

(f) “*Unexcused Absence*” means an absence from any meeting of the committee for which no written excuse has been given to and accepted by a majority vote of the relevant committee (excluding the member who has submitted the written excuse)

(g) “*Donation*” means the voluntary transfer of funds or items of material value to a person or other entity for which no goods or services of substantially equal value are received in return.

Section 1-4.40 General Policies. The Council may establish standing and ad-hoc committees as provided in this Chapter. All committees established pursuant to this Chapter shall be accountable to the Council. The Council reserves the power to deal directly with the committees as necessary.

Section 1-4.50 Committee Names. Each committee established pursuant to this Chapter shall be given an official name by the Tribal Council. All committees must indicate association with the Tribe by including “Hopland Band of Pomo Indians” in the committee name.

Section 1-4.60 Membership.

1-4.60.010 Each committee shall be composed of a minimum of five (5) members appointed by the Council. Only Tribal members may serve as voting members on the committees. Non-tribal members may serve on a committee when it is in the best interests of the Tribe provided, however, that the Tribal Council makes reasonable efforts to first appoint tribal members to committee positions.

(A) Individuals may serve on up to two (2) committees at a time.

(B) A committee may only have up to two (2) staff member serving at a time. Where two (2) staff members serve on the same committee, the least senior of the two in committee membership shall lose his/her committee seat.

(C) Committees may utilize the assistance of non-Tribal member resource people subject to Council approval. Individuals serving in a resource capacity shall not vote.

1-4.60.020 A staff member may serve on a committee playing an advisory role to the program where the staff member is employed.

1-4.60.030 At least one member of each committee shall be at least 18 years of age unless a specific committee ordinance provides otherwise.

1-4.60.040 The Council shall appoint additional members to a committee when the original number of members is insufficient to carry out the committees’ responsibilities.

1-4.60.050 Members shall attend all committee meetings unless they give written or verbal notice to the Chairperson of that committee at least two (2) days prior to the meeting; provided however, that no notice is necessary if sickness or injury of the member or sickness, injury or death of a family member or dependent caused the absence.

1-4.60.060 At the end of each member’s term of office or upon resignation or removal of a member or upon other vacancy by a member, the member shall deliver all papers, records, and books and other items in the member’s possession that relates to the committee to the member’s successor, or to the committee Chairperson.

1-4.60.070 All committee member appointments will be for one (1) year, unless designated otherwise in the specific ordinance governing that committees’ activities.

Section 1-4.70 Vacancies.

1-4.70.010 Any vacancy shall be filled by appointment of the Chair of the Tribal Council, subject to the approval of the Tribal Council, for the duration of the unexpired term.

1-4.70.020 Vacancies shall occur upon expiration of a committee members' term, when a committee member resigns for any reason, is removed, or has unexcused absences from three (3) consecutive meetings.

Section 1-4.80 Removal of Members.

1-4.80.010 A member may be removed for any reason as determined by the Tribal Council, including but not limited to:

- (A) Conduct that discredits the committee because such conduct is biased, prejudicial, or adversely affects the committees' ability to conduct business; or
- (B) Conduct that is criminal activity related to Tribal or committee assets; or
- (C) Conduct that is actively related to said assets and that would be criminal under California law if the member were a commissioner or officer of a Commission of the State of California.

1-4.80.020 Removal of a committee member shall be by majority vote of the Council on its own motion or upon receipt of a recommendation from the committee. The recommendation for removal of a member shall be presented to the Council after the committee has:

- (A) Given notice to the alleged offending member that a recommendation for removal is under consideration;
- (B) Given the alleged offending member an opportunity to discuss with the committee the cause for the recommendation for removal; and
- (C) Voted to recommend removal.

1-4.80.030 The alleged offending member shall have an opportunity to testify to the Council regarding the Chairperson's decision to remove the person from the Council. The decision of the Council is final for the purpose of judicial review. The Council decision shall be supported by substantial evidence in the record that the committee member violated the provision of this Chapter. The Tribal Court shall have no jurisdiction to review the decision of the Tribal Council removing a committee member.

Section 1-4.90 Voting. Each member of a committee shall have one (1) vote on each matter. Members must be present to vote. No proxies will be permitted.

Section 1-4.100 Quorum. A majority of the committee members must be present to constitute a quorum. Committee action is only valid if done when a quorum exists.

Section 1-4.110 Conflicts of Interest. No committee shall have more than one immediate family member serving on that committee. No committee member may vote on any action directly involving a member of his or her immediate family. A committee member may take part in discussion and count toward a quorum regarding action involving a member of his or her family. Immediate family members include the natural father, natural mother, adoptive mother, adoptive father, daughter, son, spouse, person in a spousal relationship, brother, sister, stepbrother and stepsister.

Section 1-4.120 Appointment of Officers. Each committee shall elect a Chairperson, Vice-Chairperson, and a Secretary.

Section 1-4.130 Duties of Officers.

1-4.130.010 The Chairperson shall:

- (A) Issue notice of committee meetings;
- (B) Preside at all committee meetings;
- (C) Make reports to the Council and the General Membership as provided herein;
- (D) Act as the representative of the committee in communications with individuals, groups, and organizations; and
- (E) Develop and submit for approval of the Council an annual plan of activities specifying the committees' activities for the coming year. This Annual Plan will be submitted on April 1 of each year.

1-4.130.020 The Vice-Chairperson shall:

- (A) Act as presiding officer in the Chairpersons' absence;
- (B) Compose all resolutions, within the authority of the committee to adopt, and recommendations as agreed upon by the committee; and
- (C) Notify the Council of any committee recommendation of removal of a member.

1-4.130.030 The Secretary shall:

- (A) Keep minutes of all regular and special meetings;
- (B) Maintain all official records of the committee;
- (C) Take attendance at meetings;
- (D) Provide copies of meeting minutes to the Council members and the Tribal Administrator;

- (E) Answer all correspondence for the committee;
- (F) Draft updates of committee business each month for publication in the Tribal newsletter;
- (G) Keep an accurate financial statement;
- (H) Maintain all of the committees' additional financial responsibilities; and
- (I) Provide the Council with a monthly financial report if required by the Ordinance creating the committee.

Section 1-4.140 Meetings.

1-4.140.010 All meetings shall be open to the members of the Tribe provided, however, the meetings may be closed to the public when dealing with confidential material. The committee may invite guests to attend meetings.

1-4.140.020 All regular and special meetings require four (4) days written notice unless a regular meeting time, place and date has been established by a majority vote of the committee. Notice shall be delivered to each committee member and shall be posted in a conspicuous place at the Tribal Administrative Offices. Notice shall include the date, time, place, and purpose of the meeting.

1-4.140.030 Regular monthly meetings shall be held on a date set by the committee.

1-4.140.040 Annual meetings shall take place as soon as possible after the creation of the committee and upon the anniversary of the creation of the committee. Only standing committees shall hold annual meetings.

1-4.140.050 All regular and annual meetings shall be held at the Tribal Administrative Offices or such other place on the Reservation approved by resolution of the Tribal Council for that purpose.

1-4.140.060 Special meetings may be called by the Chairperson or Vice-Chairperson and Secretary acting jointly but only when business must be done prior to the next regular meeting.

Section 1-4.150 Compensation. The Tribal Council will compensate committee members for their time spent on committee activities and reimburse them for expenses incurred for said activities in accordance with a resolution adopted from time to time for that purpose, subject, however, to availability of funds and consistent with applicable grant or contract requirements.

Section 1-4.160 Financial Accountability.

1-4.160.010 All committees dealing with finances must document all financial transactions, including, but not limited to, requests, donations, purchases, and travel vouchers. The committee Secretary shall be primarily responsible for the financial accountability of the committee.

1-4.160.020 Decisions on committee purchases require prior approval of the committee and the Tribal Council.

1-4.160.030 Committees are prohibited from making donations of any kind from committee funds. Any donations made to the committee however, will be delivered to the Treasurer of the Council within four (4) days for immediate deposit and credit for use by the Committee. The Treasurer shall issue a receipt for each donation.

1-4.160.040 Travel and Per-Diem for all committee members is subject to the travel requirements specified in the Tribe's Personnel Policy and Procedure Manual. Travel reimbursement rates are subject to change, therefore, each traveler is responsible for keeping up to date on travel reimbursement rates.

Section 1-4.170 Special Committees. All special Council committees shall be appointed by the Chairperson with a majority consent of the Council. Such committees shall be temporary in tenure and shall automatically be discharged upon the completion of their charge or upon an order of the Chairperson or a majority of the Council.

Section 1-5.10 Definitions

(a) *Item.* The term “item,” as used in this Chapter shall include, but not be limited to any paper, document, book, map, or other type of record.

(b) *Official Records.* The term “official records,” as used in this Chapter, includes any writing containing information relating to the conduct of the Tribe’s business prepared, owned, used, or retained by the Tribal Council, any tribal office or agency, regardless of physical form or characteristics. Official Records shall include but not be limited to: Ordinances, resolutions, audited financial statements, budgets, contracts with federal, state and local governments, surveys, land title documents, Tribal court decisions, Tribal minute books of the Tribal Council, federal or state legislation pertaining to the Tribe, enrollment records, inventory lists of all tribal equipment and official opinions of the Tribal Attorney, designated as such by the Tribal Attorney in writing.

(c) *Writing.* The term “writing,” as used in this Chapter means handwriting, typewriting, printing, photostating, photographing, and every other means of recording of any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other docents.

Section 1-5.20 Custodian. The Secretary of the Tribal Council is the custodian of the official records of the Tribe. The Tribal Secretary is responsible for the preservation and indexing of material deposited in the Tribal Records Depository, and shall make the material readily available for use.

Section 1-5.30 Tribal Records Depository. There is hereby established a Tribal Records Depository for the safe keeping and storage of all Tribal Records. The Depository shall be fire proof and secured in such a manner as to prevent theft. The Tribal Secretary shall maintain and properly equip the Tribal Depository as a safe and secure storage area for the preservation, indexing and use of the Tribe’s official records. The Tribal Secretary shall be the official custodian of the keys or other means of securing access to the Tribal Depository. The Tribal Secretary shall prepare, or cause to be prepared, and update, as needed, an index for all materials deposited in the Tribal Depository. The Tribal Council shall include in its annual budget an appropriation for the establishment and maintenance of the Tribal Depository.

Section 1-5.40 Required Items. The Tribal Secretary shall receive into the Tribe’s official records any item that is required by law to be delivered to or filed with him/her.

Section 1-5.50 Certified Copies of Tribal Records. As custodian of the Tribe’s records, the Tribal Secretary is authorized to certify copies of original tribal records.

Section 1-5.60 Destruction of Items Not Needed for Tribal Records. The Tribal Secretary shall periodically review the contents of the Tribal Records Depository, and assemble for destruction those items that he/she finds to be unnecessarily duplicative or determines not to be

official records of the Tribe. Destruction of Tribal Records shall be carried out following authorization of the Tribal Council after presentation to the Tribal Council of a list of the documents to be destroyed and a legal opinion from the Tribal Attorney that the Tribe is not required to keep the records under the law. Original tribal records shall not be destroyed. Wherever possible, records to be destroyed shall be shredded and recycled. Electronically stored data shall be deleted from computer memory or disks.

Section 1-5.70 Return of Tribal Records. Any person who comes into possession of Official Records shall immediately return them upon receipt of a written request to do so from the Tribal Secretary. Any person refusing to do so, after being requested to do so by the Tribal Secretary, shall be guilty of theft and unlawful conversion of Tribal property. The Tribal Secretary shall, in the event of a refusal to return Official Records, report the matter to the Chief of Police for the Tribe and/or the Sheriff of Mendocino County and, with the approval of the Tribal Council, authorize the Tribal Attorney to initiate litigation to obtain a court order requiring the person to return the Official Records.

Section 1-6.10 Tribal Administrator

1-6.10.010 Office Established. The office of the Tribal Administrator is created and established. The Tribal Administrator shall be appointed by the Tribal Council wholly on the basis of his or her administrative and executive ability and qualifications, and shall, absent a written contract to the contrary hold office at the pleasure of the Tribal Council and can be removed with or without cause as provided in Section 3.01.120 below. None of the members of the Tribal Council shall at the same time hold the position of Tribal Administrator.

1-6.10.020 Residence Requirement. Residence on or near the Hopland Indian Reservation ("Reservation") at the time of appointment shall not be required as a condition of appointment, but within a reasonable time thereafter which shall be negotiated with the Tribal Council at the time of appointment, the Tribal Administrator must reside on or near the Reservation or the Tribal Council shall declare the office of the Tribal Administrator to be vacant.

1-6.10.030 Eligibility. Except as provided in Section 1-6.10.010, no person elected or appointed to serve on the Tribal Council shall, subsequent to such election or appointment be eligible for appointment as Tribal Administrator until one year has elapsed following the expiration of the last term for which he or she was elected or appointed, unless the appointment is made by a two-thirds (2/3) vote of the Tribal Council.

1-6.10.040 Bond. The Tribal Administrator shall furnish a corporate surety bond to be approved by the Tribal Council in such sum as may be determined by the Tribal Council and shall be conditioned on the faithful performance of the Tribal Administrative duties required by this chapter. Any premium for such bond shall be paid for by the Tribe.

1-6.10.050 Vacant--Absence. The Tribal Administrator shall appoint, subject to the approval of the Tribal Council, one of the other officers, department heads, or employees of the Tribe to serve as Acting Tribal Administrator during any temporary absence or disability of the Tribal Administrator. In case of the absence or disability of the Tribal Administrator and his or her failure to so appoint an Acting Tribal Administrator, the Tribal Council may designate some qualified employee to perform the duties of the Tribal Administrator during the period of absence or disability of said Tribal Administrator, subject, however, to said person furnishing a corporate surety bond conditioned upon faithful performance of the duties required to be performed as set forth in Section 3.01.040.

1-6.10.060 Compensation and Reimbursement. The Tribal Administrator shall receive such compensation and expense allowances as the Tribal Council shall from time to time determine and fix by resolution, and said compensation and expenses shall be a proper charge against such funds of the Tribe as the Tribal Council designates.

(A) The Tribal Administrator shall be reimbursed all sums necessarily incurred or paid by that person in the performance of his or her duties or incurred when traveling on business pertaining to the Tribe under the direction of the Tribal Council.

Reimbursement shall only be made, however, when a verified itemized claim, setting for the sums expended for such business for which reimbursement is requested has been presented to the Tribal Council for approval.

1-6.10.070 Powers and Duties. Except when the Chairperson fulfills the duties of Tribal Administrator, the Tribal Administrator shall serve directly under the supervision and control of the Tribal Council in a purely administrative capacity. The Tribal Administrator shall have no legislative or executive authority. When the Tribal Council is not in session, the Tribal Administrator shall serve directly under the supervision and control of the Tribal Chair. The powers and duties of the Tribal Administrator shall be as follows:

- (A) To supervise and coordinate on behalf of the Tribal Council, such of its administrative functions and to exercise control of such affairs of the Tribe as may be placed in his or her charge;
- (B) To attend meetings of the Tribal Council, except when excused therefrom by the Council, to report on and discuss with the Council any matter concerning the affairs of the departments, services, or activities under his or her supervision upon which, in the Tribal Administrator's judgment the Tribal Council should be informed, or as to which the Council requires information;
- (C) To assist the Tribal Council in coordinating the administrative functions and operations of the various departments, divisions, properties and services of the Tribal government, and on its behalf carry out the policies, rules and regulations and ordinances adopted by it, relating to the administration of the affairs of such departments, divisions, properties or services;
- (D) To analyze the functions, duties and activities of the various departments, divisions, properties and services of the Tribal government, and of all employees thereof, and to make such recommendations to the Tribal Council with reference thereto as in the Tribal Administrator's judgment will result in the highest degree of efficiency in the overall operation of the Tribal government;
- (E) To cause to be prepared and submitted to the Tribal Accountant, Treasurer of the Tribal Council and the Tribal Administrator, by each department, division or service of the Tribal government, by no later than September 1 of each year, itemized annual estimates of expenditures required by any of them for capital outlay, salaries, wages and miscellaneous operating costs; to work with the Tribal Accountant to tabulate the same into a preliminary consolidated Tribal budget, and cause the Tribal Accountant to submit the same to the Tribal Council at its regular meeting in September of each year, with the recommendation as to such changes which the Tribal Accountant, Tribal Administrator deems advisable;
- (F) To be responsible under Tribal Council direction for the administration of the financial affairs of the Tribe, and to keep the Tribal Council informed with respect thereto;

- (G) As agent for the Tribal Council, to supervise the expenditures of all departments, divisions, properties or services of the Tribal government, and to act as purchasing agent for the purchase of all supplies, goods, wares, merchandise, equipment and material which may be required to any such departments, divisions, properties or services;
- (H) To verify all claims against the Tribe before warrants therefor are drawn by the proper fiscal officer;
- (I) To recommend to the Tribal Council necessary public improvement projects and programs, and to aid and assist the Tribal Council and the various departments in carrying the same through to successful conclusion;
- (J) To prepare and submit to the Tribal Council an organization chart, showing the organizational plan for all departments of the Tribal government;
- (K) To serve as the public relations officer of the Tribal government; to investigate all complaints, to follow and endeavor to adjust all meritorious complaints filed against any employee, department, division or service thereof;
- (L) To cooperate with all the community organizations whose aim and purpose it is to advance the spiritual, temporal, and material interests of the Tribe and its people, and to provide them with assistance through the Tribal government;
- (M) To make or cause to be made, to keep or cause to be kept up to date, and to transmit or cause to be transmitted to the Treasurer for the Treasurer's records and to ensure that the information is maintained in the records of the Tribal Accountant, an inventory of all property, real and personal, owned by the Tribe and to recommend to the Tribal Council the purchase of new property whenever in his or her judgment the same can be obtained at the best price and terms;
- (N) With the approval of the Tribal Council to transfer Tribal equipment, machinery, furnishings, supplies, materials and furniture from one department to another, or the disposal of the same for the benefit of the Tribe whenever in his or her judgment the transfer or disposal thereof would be advantageous to the Tribal government;
- (O) To make or cause to be made studies and surveys of the duties, responsibilities and work of the personnel in the various departments, divisions and services of the Tribal government, and with the approval of the Tribal Council to transfer, abolish, or consolidate positions, whenever in his or her judgment such action would increase efficiency in the administration of the Tribal government;
- (P) To review or cause to be reviewed by a person designated by the Tribal Administrator for that purpose, all mail addressed to all tribal departments, and give immediate attention thereto, to the end that all administrative business referred to it in said communications, and not necessarily requiring action by the Tribal Council, may be disposed of between Council meetings; providing, that all actions taken pursuant to such

communications shall be reported to the Tribal Council at its next regular meeting thereafter;

(Q) To exercise general supervision over all Tribal equipment and personal property, as listed on the official inventory and equipment list of the Tribe, which is under the control and jurisdiction of the Tribal Council;

(R) Based on the recommendations of appropriate department heads or immediate supervisors, appoint, remove, promote and demote any and all employees of the Tribe, as set forth in a resolution of the Tribal Council, subject to all applicable personnel policies, ordinances resolutions, rules and regulations of the Tribal Council; and

(S) To perform such other duties and exercise such other powers as may be delegated to the Tribal Administrator from time to time by ordinance or resolution or other action of the Tribal Council.

(T) Along with the Chairperson of the Tribal Council, ensure that the conditions and reporting requirements of all federal, state and charitable grant contracts with the Tribe are met in a timely manner. To accomplish this goal, the Tribal Administrator shall establish a written uniform procedure, which shall be approved by the Tribal Council within ninety (90) days from the date of adoption of this Code and updated on an annual basis, as is necessary, for preparing the narratives and reports necessary to meet grant contract conditions.

(U) To work with the Treasurer and Tribal Accountant to review all tribal audits, develop procedures to remove any audit exceptions and implement the procedures developed to ensure that any audit exceptions do not occur again.

(V) To receive, review and report to the Tribal Council on all reports prepared by a federal agency issued to the Tribe, and to establish procedures or any corrective action necessary to bring the Tribe into compliance with the law.

1-6.10.080 Service as Ex Officio Member of Boards and Commissions. The Tribal Administrator shall be an ex officio member of all boards and commissions appointed by the Chairperson and the Tribal Council pursuant to Tribal law, with a right to participate in all deliberations and actions of said boards or commissions, but without vote.

1-6.10.090 Hours. It shall be the duty of the Tribal Administrator to devote his or her entire normal working time to the duties of this office in the interests of the Tribe.

1-6.10.100 Authority Limited. The Tribal Administrator, shall act as the agent for the Tribal Council in the discharge of its administrative functions, but shall not exercise any policy making or legislative functions whatsoever nor attempt to commit or bind the Tribal Council or any member thereof to any action, plan or program requiring official Council action. The Tribal Administrator must obtain Tribal Council approval for any expenditure not provided for in the Tribe's budget. It is not intended by this Chapter to grant any

authority to, or impose any duty upon said Tribal Administrator which is vested in or imposed by general law or valid Tribal ordinances in any other Tribal commission, board, department, office or employment position.

1-6.10.110 Standards for Conduct. In the discharge of his or her duties as Tribal Administrator, the person holding such position shall endeavor at all times to exercise the highest degree of tact, patience and courtesy in his or her contacts with the public and with all Tribal commissions, boards, departments, officers and employees and shall use his or her best efforts to establish and maintain a harmonious relationship among all personnel employed in the government of the Tribe to the end that the highest possible standards of public service are continuously maintained.

1-6.10.120 Removal.

(A) The termination of the Tribal Administrator shall be only upon a majority vote of the Tribal Council. The Tribal Administrator shall be furnished with written notice of the Tribal Council's intention to remove, at least five (5) business days before the effective date of such termination. During the five-day notice period, the Tribal Administrator shall be placed on leave without pay. Within two (2) days after receipt of such notice, the Tribal Administrator may, by written notice, request a hearing before the Council, and thereafter the Council shall fix a time for said hearing at its usual meeting place, but before the expiration of the five-day period, at which time the Tribal Administrator may appear and be heard.

(B) In removing the Tribal Administrator, the Tribal Council shall use its discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is for the Tribal Administrator to publicly present to the Tribal Council his/her grounds for opposition to removal prior to its action.

1-6.10.130 Assistance from Other Officers. It shall be the duty of all of the subordinate officers, including the Tribal Attorney, Chief of Police or other Law Enforcement Official, and Director of Finance, to cooperate with and assist the Tribal Administrator in administering the affairs of the Tribe in the most efficient, economical, and harmonious manner.

1-6.10.140 Chain of Command. The Tribal Council and its members shall deal with the administrative services of the Tribe by requiring the Chairperson and Vice-Chairperson, or in their absence any other Tribal Council member to attend and participate in staff and department head meetings. The Chairperson shall summarize and report on all such meetings to the Tribal Council at all regularly scheduled Tribal Council meetings. Neither the Tribal Council nor any member thereof shall give orders to any subordinates of the Tribal Administrator. The Tribal Administrator shall take his or her orders and instructions from the Tribal Council. When the Tribal Council is not in session, the Tribal Administrator shall take his or her orders and instructions from the Tribal Chair. No individual Council member shall give orders or instructions to the Tribal Administrator.

Section 1-6.20 Tribal Attorney

1-6.20.010 Office Established. The office of the Tribal Attorney is created and established. The Tribal Attorney shall be appointed by the Tribal Council and shall hold office solely at the pleasure of the Tribal Council.

1-6.20.020 Qualifications. No person shall be appointed to the office of Tribal Attorney unless he or she possesses the following minimum qualifications:

- (A) The person has graduated from a law school accredited by the state in which the law school is or was located;
- (B) The person is licensed to practice law in the State of California;
- (C) The person is admitted to practice law before the United States District Court for the Northern District of California;
- (D) The person has five years of experience in the practice of federal Indian law; and
- (E) No disciplinary action has been taken against said person by any Bar of any State or Tribe prior to his or her appointment to the office of Tribal Attorney. The Tribe's Personnel Director shall verify with the state bar where the person applying for the position of Tribal Attorney is licensed, whether the applicant meets the qualifications listed in subparagraph 1 and 2 above and that no disciplinary action has been taken against the applicant by the state bar.

1-6.20.030 Insurance. The Tribal Attorney shall, at the discretion of the Tribal Council, obtain and keep in force and effect, during the term of his or her office, legal malpractice insurance, the coverage and policy limits to be determined by the Tribal Council. Upon request of the Tribal Council, the Tribal Attorney shall provide the Tribal Council with proof of the issuance coverage required by this Section.

1-6.20.040 Vacancy: Absence. The Tribal Attorney shall appoint, subject to the approval of the Tribal Council, an attorney who meets the qualifications set forth in Section 3.02.020 of this chapter to act as the Tribal Attorney during any temporary absence or disability of the Tribal Attorney.

1-6.20.050 Compensation and Reimbursement. The Tribal Attorney shall receive such compensation and expense allowances as the Tribal Council shall from time to time determine and fix by resolution or the adoption of a resolution approving a contract, and said compensation and expenses shall be a proper charge against such funds of the Tribe as the Tribal Council shall designate.

- (A) The Tribal Attorney shall be reimbursed all sums necessarily incurred or paid by that person in the performance of his or her duties or incurred when traveling on business pertaining to the Tribe under the direction of the Tribal Council. Reimbursement

shall only be made, however, when a verified itemized claim or bill, setting forth the sum expended for such business for which reimbursement is requested, has been presented and approved by the Tribal Council.

1-6.20.060 Powers and Duties. The Tribal Attorney shall: (1) provide the Tribe with advice and counsel in oral or written form pertaining to matters affecting the Tribe at the request of the Tribal Council, Chairperson of the Tribal Council, Tribal Administrator, Secretary, Treasurer of the Tribal Council, Gaming Commission, or the Chief of Police; (2) be available for consultation with Tribal staff as determined by the Chairperson or Tribal Administrator; (3) be available for consultation with Council members on matters pertaining to the Tribe; and (4) represent the Tribe in all matters at law or in equity before any court, administrative agency or governmental body as directed by the Tribal Administrator, Tribal Chairperson, or Tribal Council. The Tribal Attorney shall be the official responsible for the prosecution and enforcement of all Tribal ordinances in all courts of competent jurisdiction. Such enforcement or prosecution is to be undertaken only at the direction and approval of the Tribal Council.

1-6.20.070 Contract for Services. Nothing in this chapter shall prohibit the Tribal Council from entering into a contract with an attorney to serve and perform the duties of the Tribal Attorney; provided the provisions of the contract are in accordance with and subject to the terms and conditions of this Chapter and applicable federal law. The contract shall also contain a provision that states in the event the contract is terminated the attorney shall turn over to the Tribe all case files in the possession of the attorney within a reasonable period of time not to exceed thirty (30) days.

Section 1-6.30 Attorney's Fees

1-6.30.010 Definitions. For purposes of this chapter, the following words and phrases shall have the following meanings unless the context appears otherwise:

- (a) “*Adverse party*” means any party to any litigation who seeks any relief from the Tribe or opposes any relief requested by the Tribe.
- (b) “*Tribe*” means the Hopland Band of Pomo Indians, its officers, agents and employees.
- (c) “*Court*” means any court, administrative proceeding or hearing of any kind.
- (d) “*Prevailing party*” means a party to litigation who obtains any relief it has sought in the litigation. The term “any relief” includes, but is not limited to, one or more but not necessarily all of the claims or defenses asserted in the relief by way of settlement or unilateral act of an opposing party.

1-6.30.020 Award of Fees. In any litigation in which the Tribe is a prevailing party, the Tribe shall be entitled to recover from all adverse parties all of its costs and reasonable attorney's fees incurred in prosecuting or defending the action.

1-6.30.030 Computation of Award. Such fees shall be established by the court upon the filing of a cost bill as provided by law or by separate motion. In determining the amount of the fee the court shall multiply the number of hours devoted to preparing, prosecuting or defending

the action, commencing when the matter is first referred to the Tribal Attorney, by a reasonable hourly rate for the services provided. In determining a reasonable hourly rate, the court shall consider the reasonable market rate in the jurisdiction for the attorney's services, taking into consideration the attorney's experience and skill and shall not be limited to the amounts actually paid by the Tribe.

1-6.30.040 Multiple Adverse Parties. If there is more than one adverse party, they shall be jointly and severally liable for all of the attorney's fees awarded to the Tribe by the court.

Section 1-6.40 Tribal Engineer

1-6.40.010 Office Established. The office of Tribal Engineer of the Tribe is created and established. Except as provided by contract, the Tribal Engineer shall be appointed by and serve at the pleasure of the Tribal Council and shall report directly to the Tribal Council.

1-6.40.020 Compensation. The Tribal Engineer shall receive such compensation as shall be set by the Tribal Council by resolution or contract.

1-6.40.030 Duties.

(A) The Tribal Engineer shall: fix the grades of streets, alleys, sidewalks curbs, gutters, water lines, sewers, and waterways; make such maps, conduct such survey plans and specifications, profiles and cross-sections as are required of him/her by the Tribal Council and perform such other duties as are required by law.

(B) The Tribal Engineer shall keep a record of all work done by him/her and all his/her records, calculations, data, books, maps, plans and profiles are and shall remain the property of the Tribe, and shall be kept in the Tribal Depository.

(C) With the approval of the Tribal Council, the Tribal Engineer shall employ such labor and engage such vehicles, equipment, and facilities as may be necessary in the performance of his/her duties and direct or supervise the operation of the same.

1-6.40.040 Qualifications. The Tribal Engineer shall possess a degree in civil or structural engineering from an accredited college or ten (10) years or more of experience as a city or county engineer and who is either: (1) a Professional Land Surveyor or (2) Registered Civil Engineer licensed by a state.

1-6.40.050 Insurance. The Tribal Council may require the Tribal Engineer to provide the Tribal Council with proof of errors and omissions, personal liability, workers' compensation, and other insurance coverage of the type, form, and in the amount as the Tribal Council shall determine based upon a recommendation from the Tribal Attorney.

1-6.40.060 Contract for Services. Nothing in this Chapter shall prohibit the Tribal Council from entering into a contract with an engineer to serve and perform the duties of the Tribal Engineer provided that the provisions of the contract are in accordance with and subject to the terms and conditions of this chapter and applicable federal law.

Section 1-6.50 Chief of Police

1-6.50.010 Office Established. The Office of the chief of police is created and established. The chief of police shall report to and be under the direct supervision and control of the Tribal Council, and when the Council is not in session, the Chairperson of the Council, in that order.

1-6.50.020 Qualifications. No person shall be appointed to the office of the chief of police unless he or she possesses the following minimum qualifications:

- (A) Possession of either a State of California or Bureau of Indian Affairs (“BIA”) POST certificate;
- (B) Possession of a California Class 3 driver’s license;
- (C) Possession of an Associate Arts degree from an accredited college or university or equivalent education, with major work in public or business administration or related field;
- (D) Knowledge of current principles, practices and techniques of police administration, organization and operation;
- (E) Knowledge of current laws and regulations pertaining to BIA special officers, federal jurisdiction within Indian Country, and Tribal criminal jurisdiction within a P.L. 280 state;
- (F) Knowledge of crime prevention and law enforcement techniques including but not limited to investigation, identification, patrol, traffic control, juvenile delinquency control, record keeping, and the care and custody of persons and property; and
- (G) Five (5) years of experience in law enforcement, including at least one (1) year in a responsible middle management capacity, preferably in a Tribal or municipal police department; and
- (H) Pass a psychological evaluation performed by a licensed psychiatrist, psychologist, or therapist, concluding that the person is mentally fit for duty.

1-6.50.030 Bonding. The chief of police shall, at the discretion of the Tribal Council, obtain and keep in force and effect during the term of his or her office a bond, the coverage and amount to be determined by the Tribal Council. Any premium for such bond shall be a proper charge against the Tribal government.

1-6.50.040 Vacancy. The chief of police may appoint, subject to the approval of the Tribal Council, a peace officer from within the police department or who meets the qualifications set forth in Section 3.09.020 above to act as the chief of police during any temporary absence or disability of the chief of police.

1-6.50.050 **Compensation and Reimbursement:** The Chief of police shall receive such compensation and expense allowances as the Tribal Council shall from time to time determine and fix by resolution, said compensation and expenses shall be a proper charge against such funds of the Tribe as the Tribal Council shall designate.

1-6.50.060 **Powers and Duties.** Under the direction and supervision of the Council, or when the Council is not in session, the Chairperson, the chief of police shall:

- (A) Enforce or cause to be enforced all federal and Tribal criminal statutes and ordinances, and when authorized by an appropriate cross-deputization agreement, all state criminal laws;
- (B) Arrest or cause to be arrested all persons who violate any such statutes or ordinances, or issue or cause to be issued citations to said violators;
- (C) Prepare, plan, direct, supervise and coordinate the administration, budget, duties, and responsibilities of the police department and its personnel;
- (D) Attend all regular Tribal Council meetings and such other meetings as the Tribal Council or Chairperson or Tribal Administrator may request, and use his/her best efforts to notify the Tribal Council in advance of any such meeting of any threats made to the security of persons attending said meeting, or to their property;
- (E) Confer with the Tribal Council, Tribal officers, and the Tribal citizens of the Hopland Band of Pomo Indians on law enforcement problems and assist in the development of Tribal law enforcement policies;
- (F) Coordinate law enforcement activities with other federal, state, county or city law enforcement agencies including entering into mutual aid or cross-deputization agreements with such agencies; and
- (G) Perform such other duties as the Tribal Council Chairperson shall from time to time request.

Section 1-6.60 Chief Financial Officer

1-6.60.010 **Section 3.10.010 Establishment of Office.** The office of the Chief Financial Officer (“CFO”) is created and established. The CFO shall be appointed by the Tribal Council and hold office solely at the pleasure of the Tribal Council.

1-6.60.020 **Section 3.10.020 Bond.** The CFO of the Tribe shall furnish a corporate surety bond to be approved by the Tribal Council in such sum as may be determined by the Tribal Council and shall be conditioned on the faithful performance of the duties imposed on the CFO as herein described. The bond fee shall be a proper charge against such funds of the Tribe as the Tribal Council shall designate.

1-6.60.030 Section 3.10.030 Compensation. The CFO shall receive such compensation as the Tribal Council shall, from time to time, determine and fix by resolution, and such compensation shall be a proper charge against such funds of the Tribe as the Tribal Council shall designate.

1-6.60.040 Section 3.10.040 Powers and Duties. The CFO shall be the Chief Financial Officer for the Tribe under the direction and control of the Tribal Council and Tribal Council Treasurer when the Tribal Council is not in session. He/she shall be responsible for the efficient administration of all the accounting functions for the Tribe. He/she shall have the following responsibilities and shall perform the following duties:

- (A) Supervise and control all appointed personnel in the Tribe's finance office;
- (B) Be responsible for all accounting functions of the Tribe and collect all taxes, fees, and customers' accounts;
- (C) Have authority to reassign employees under his/her supervision, temporarily or permanently, to meet emergencies and volume growth requirements;
- (D) Administer laws and ordinances pertaining to taxes, licenses, permits, and fees;
- (E) Cause current accounts to be kept of all funds, revenues, receipts, expenditures, and financial commitments of the Tribe;
- (F) Have budgetary control over expenditures in order that they will not exceed either anticipated expenditures or actual receipts;
- (G) Collect, receive, and deposit with a federally insured depository all monies of the Tribe and keep proper records thereof in accordance with generally accepted accounting principles for governments;
- (H) Cause the performance of accounting control of storage and issuance of materials and supplies;
- (I) Present to the Tribal Council an estimate, plan, and program of the Tribe's financial activities;
- (J) Serve as the custodian of all of the Tribe's business and accounting records;
- (K) Prescribe and control, forms and procedures for all of the Tribal departments which pertain to revenues, receipts, or expenditures of Tribal funds in any manner;
- (L) Prepare and issue all warrants and registers for the expenditure of funds;

- (M) Prepare financial statements, including but not limited to cash flow projections and accounts receivable, aging reports, and statistical reports on a monthly and annual basis to the Tribal Council;
- (N) Prepare an estimate of annual revenues and expenditures and report the same to the Tribal Council on a monthly basis;
- (O) Perform fund accounting, cost accounting, and job costing as directed by the Chairperson, Tribal Administrator, Treasurer, or the Tribal Council;
- (P) Have access to and the right to audit and shall audit or cause to be audited the accounting functions of all Tribal businesses and all departments and divisions of the Tribal Government annually and submit to the Tribal Council a written report on the results of the audit and any recommendations for correcting any problems discovered by the audit;
- (Q) Work with the Treasurer to ensure that an inventory and list of all tribal equipment and personal property is taken, prepared and updated on a monthly basis in accordance with Generally Accepted Accounting Practices; and
- (R) Perform such other functions as the Tribal Council may prescribe by resolution of the Council.

1-6.60.050 Absence. Should the CFO be absent or disabled, the Assistant to the CFO, under the supervision and control of the Tribal Council Treasurer when the Tribal Council is not in session, shall perform the functions set forth in this Chapter.

Section 1-6.70 Department of Building Inspection

1-6.70.010 Department Established. There is established a Tribal department of building inspection. The Tribal Council shall budget and appropriate such funds for this department as it may deem appropriate. The Council may by resolution create the position of Director of the Department of Building Inspection. The Director shall supervise the Building Inspector and direct him/her in his/her duties.

1-6.70.020 Building Official. The office of Building Inspector is established. The Building Inspector shall be appointed by and serve at the pleasure of the Tribal Council. The Building Inspector shall report to and be under the direct supervision and control of the Tribal Council and when the Council is not in session, the Chairperson of the Tribal Council, or the Tribal Administrator, in that order. He/she shall have charge of enforcing all uniform codes adopted by the Tribal Council and all other ordinances and laws pertaining to building inspection and code enforcement. He shall have such other duties and functions as are delegated to him/her by the Chairperson or Tribal Administrator or are established by the Tribal Council.

1-6.70.030 Qualifications. The Building Inspector shall be certified and licensed as a building inspector or chief inspector by the International Conference of Building Officials.

1-6.70.040 Duties. The Building Inspector shall perform all inspections of all construction that takes place on the Reservation to insure that the construction complies with all of the requirements of the Uniform Codes and any zoning ordinance adopted by the Tribe. The Building inspector is also authorized by the Tribal Council to issue citations for violations of the codes and ordinances the Building Inspector is authorized to enforce, including working with the Tribal Attorney to abate any public nuisances under the Tribe's Uniform Building Code.

Section 1-6.80 Department of Planning

1-6.80.010 Department Established. There is established a Tribal Planning Department, The Tribal Council shall budget and appropriate such finds for this department as it may deem appropriate.

1-6.80.020 Planning Director. The office of Planning Director is established. The Planning Director shall be appointed by and, except as specified by written contract, at the pleasure of the Tribal Council. The Planning Director shall report to and be under the direct supervision and control of the Council, and when the Council is not in session, the Chairperson of the Tribal Council or the Tribal Administrator, in that order.

1-6.80.030 Qualifications. No person shall be appointed to the office of Planning Director unless he or she possesses the following minimum qualifications:

- (A) A bachelor's degree, with major course work in planning, public administration or a closely related field;
- (B) At least two (2) years of professional planning experience with a governmental agency;
- (C) Knowledge of: (a) principles and practices of local governmental planning (b) applicable federal, state, or tribal laws affecting planning including, but not limited to the National Environmental Policy Act; and (c) the functions of other governmental agencies involved in the planning process.

1-6.80.040 Duties. In addition to those duties set forth in Section 82.050 of the Tribe's Zoning and Land Use Ordinance, the Planning Director shall perform all of the Tribe's current and long range planning, including but not limited to the following:

- (A) Respond to public inquiries received by telephone or personal contact on matters pertaining to planning, zoning and the requirements for project development;
- (B) Apply and enforce the Tribe's Zoning and Land Use Ordinance;
- (C) Assist the Tribe's Building Inspector in enforcing the Tribe's Uniform Building Codes and Zoning and Land Use Ordinance and recognize and resolve Code violations in the field;

- (D) Process current development applications, and evaluate plans and projects for Tribal Code compliance and design considerations;
- (E) Prepare planning reports and develop agenda material for Planning Commission and Tribal Council meetings;
- (F) Work with the Tribal Environmental Department to prepare basic environmental documents pursuant to the National Environmental Policy Act and the environmental requirements of the Tribe's Tribal-State Gaming Compact;
- (G) Collect and record land use data, and prepare base maps, zoning maps, charts and graphs;
- (H) Develop, with the assistance of the Tribal Attorney, and implement systems and procedures to ensure the proper processing of permit applications and the issuance of use permits, variances, zoning changes and site plan reviews;
- (I) Perform field work and site visits to fully comprehend, analyze, and document development proposals;
- (J) Make oral presentations to the Planning Commission and Tribal Council on a routine basis regarding planning matters and projects;
- (K) Coordinate with other Tribal departments and other governmental agencies as required on planning issues and projects; and
- (L) Perform such other duties that are delegated to the Planning Director by the Tribal Council, Chairperson or Tribal Administrator. The Planning Director shall not, in the performance of his or her duties engage in any negotiations of any kind with any person, organization or entity that is or intends to submit a development proposal to finance, design, construct or operate any project on the Reservation or involving the Tribe.

1-6.80.050 Development Guide. Within ninety (90) days from the date of adoption of this Code and the appointment of a Planning Director by the Tribal Council, the Planning Director shall work with the Tribal Attorney to develop a written procedural guide for the processing of development projects on the Reservation including but not limited to: (1) building permits; (2) use permits; (3) variances; (4) site plan review permits; (6) zoning permits; (6) sign permits; and (7) zoning text amendments. The guide shall be in writing and shall be submitted to the Tribal Council for its review and approval.

Section 1-7.10 Appropriations and Budget

1-7.10.010 Definitions. For the purposes of this Chapter, the following words and phrases shall have the following meaning, unless the context appears otherwise:

(a) “*Budget Authority*” means the authority to expend funds from a particular fund account as a result of appropriation pursuant to an approved budget plan.

(b) “*Budgeted Funds*” means funds which have been appropriated for expenditure pursuant to an approved budget plan.

(c) “*Budget Transfer*” means the budget transfer authority to expend funds from one item, purpose, or cost center within a fund to another item, purpose, or cost center constituting a modification of a budget plan within a fund account and which is a budget transfer (i.e. a transfer of funds from the Tribal Health Department Fund to the Government General Fund).

(d) “*Cost Center*” means a budget category which contains line items to which expenditures are budgeted and charged such as a program. Generally, departments within a general budget category are budgeted as separate cost centers.

(e) “*Fund*” means a separate operating fund of the Tribe established by the Tribal Council to carry out a specific purpose. Examples are the general fund, special revenue funds, and trust funds.

(f) “*Fund Transfer*” means the movement of funds from one Tribal fund account to another, such as the general fund to a trust fund.

(g) “*Reserves*” means a trust fund established by the Tribal Council for an indefinite period of time to operate for a specific purpose under specific procedures.

(h) “*Special Reserve Fund*” means any funds paid or owed to the Tribe as the result of the Tribe entering into any grant contract with any governmental, corporate charitable entity or individual.

1-7.10.020 Annual Budget. Prior to October 1 of each year, the Tribal Council shall, by motion, authorize the posting of a proposed Tribal budget to be effective for the following fiscal year. Such proposed budget shall state the estimated revenues to be received from all sources and the proposed expenditures by category as provided in this ordinance.

1-7.10.030 Budgeted Categories. The proposed budget authorized for posting by the Tribal Council shall be budgeted expenditures delineated in the following categories: (1) government; (2) social services; (3) economic development; (4) enterprise funds; (5) special reserve fund and (6) designated reserves. In addition there shall be posted and available to Tribal members a detailed breakdown of all proposed expenditures within each major category.

1-7.10.040 Posting of Budget. A copy of the proposed budget shall be posted not later than November 1 of each year and for a continuous period of not less than 30 days thereafter in three public places as designated by the Tribal Council by resolution, which are designed to give to the general membership of the Tribe notice of the proposed budget.

1-7.10.050 Public Hearings. One or more public hearings for the purposes of discussing the proposed budget shall be held at the Tribe's Administrative offices not less than fifteen (15) and no more than thirty (30) days after the date of initial posting of the proposed budget. Notice of such public hearing shall be given by publication in the Tribal newspaper, and if no Tribal newspaper exists, then by publication in a newspaper of general circulation within the County of Mendocino. It shall be the responsibility of the CFO to carry out the provisions of this Section.

1-7.10.060 Appropriation of Funds. Following the public hearing and not later than January 1 of each year, the Tribal Council shall take action by resolution to appropriate Tribal funds for expenditure pursuant to the proposed budget. Based on the comments received from the members of the Tribe, the Tribal Council may amend or reduce the proposed budget. Except as provided in Section 4.01.070, once the budget has been approved by the Tribal Council, such funds may only be expended for such purposes for which they were appropriated and shall remain available for expenditure for such purpose until expended or until the budget year has ended.

1-7.10.070 Transfer of Authority to Expend Funds Within the Budget. After the effective date of any Tribal Council Resolution appropriating Tribal funds for expenditure pursuant to a proposed budget, there shall be no transfer of funds from one fund to another within the budget except as follows:

(A) Transfer within major categories. There may be a transfer of authority to expend funds from one budgeted expenditure to another within any of the first four (not including the designated reserves) categories set forth in this Chapter, subject to the approval of the Tribal Council.

(B) Transfer between categories. There may be a transfer of authority to expend funds between any of the first four (not including the designated reserves) categories set forth in this Chapter, only with the approval of the Tribal Council by a majority vote.

1-7.10.080 Expenditure Not Required. The appropriation of Tribal funds for expenditure pursuant to a proposed budget shall not obligate the Tribal Council or the Chairperson to make any expenditures for which funds are not appropriated.

1-7.10.090 Carry-over of Budgeted Funds. Once appropriated pursuant to the Tribal budget, funds remain available for expenditure until expended and shall be subject to the authority for transfer provided in the foregoing Section 4.01.070 of this Chapter. Any unexpended funds remaining in a budgeted category at the end of the budget year may be carried over to the next budget year, unless by contract, the Tribe is prohibited from carrying over funds in a particular budget category to the following year.

1-7.10.100 Supplemental or Amendment of Budget. The Tribal Council may from time to time propose an amendment to supplemental budget. The proposed supplemental budget shall be subject to the same requirements as set forth above in this Chapter for an annual budget except as follows: (1) the resolution appropriating Tribal funds for the expenditure pursuant to the supplemental budget may be adopted by less than thirty (30) days' notice to the public before the effective date of the supplement budget and (2) the date of supplemental budget shall be not less than sixty (60) days prior to the effective date of the proposed supplemental budget.

1-7.10.110 Enterprise Funds. Appropriation and expenditure of funds for Tribal business enterprises shall be made in accordance with the plan of operation of the individual enterprise. Until a plan of operation has been approved by the Tribal Council, appropriations and expenditures of enterprise funds shall be subject to the terms of this Chapter.

1-7.10.120 Establishment of Reserves. The Tribal Council may from time to time, by resolution, establish Tribal reserves. A majority vote of those voting at a duly authorized Tribal Council meeting in which a quorum is present is required to create such a reserve. Once established, the reserve may not be abolished or modified except by amendment to the resolution by two-thirds (2/3) vote of the Tribal Council. The reserve shall become a trust fund of the Tribe. The purpose and the policies and rules governing the operation of the reserve must be clearly stated in the resolution establishing the reserve. Examples of such reserve funds are pension funds, scholarships funds, housing funds, etc.

Section 1-7.20 Purchasing

1-7.20.010 System Adopted. In order to establish efficient procedures for the acquisition or use of supplies and equipment, to secure for the Tribe supplies and equipment at the lowest possible cost commensurate with quality needed, clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is adopted.

1-7.20.020 Purchasing Officer. The Tribal Administrator or any other person designated by the Tribal Council by resolution, is designated the purchasing officer of the Tribe. He/she shall have the following duties and responsibilities:

- (A) To approve all purchases or contracts for all supplies, equipment and contractual personal services, excluding professional services, needed by any Tribal department or agency which derives its support wholly or in part from the Tribe in accordance with purchasing procedures as prescribed by this chapter, relevant administrative regulations and such rules and regulations as the purchasing officer shall prepare and which shall be approved by the Tribal Council;
- (B) Negotiate or cause to be negotiated and recommend execution of contracts for the purchase of supplies and equipment;
- (C) Act to procure for the Tribe acceptable quality in supplies and equipment at least expense to the Tribe;
- (D) Encourage bidding and full competition on all purchases;
- (E) Adopt administrative regulations, including revisions and amendments thereto, governing the purchase of supplies and equipment for the Tribe, subject to the approval of the Tribal Council;
- (F) Prescribe, design, and issue forms needed for the operation of this chapter and other applicable rules and regulations;
- (G) Regulate the transfer of surplus property between departments as needed, or sell, or otherwise dispose of such surplus property;
- (H) Maintain a bidders' list, vendors' catalog file and other records used in modern procurement operations; and
- (I) Assure that every bidder complies with all applicable Tribal, state and federal safety regulations.

1-7.20.030 Procurement Procedures. Generally the procurement procedure shall consist of the following:

- (A) Determination of requirements by the purchasing officer and the using agency or department;

- (B) Competitively bid the items or service for procurement;
- (C) Referral of bids to using department or agency for analysis and recommendations;
- (D) Award of purchase orders or contracts;
- (E) Supervision of receipt and acceptance procedures;
- (F) Final approval of all invoices for payment prior to the preparation of any warrant or check for payment to any third party.

1-7.20.040 Bid Specifications.

- (A) As needed, the purchasing officer, in conjunction with the using department or agency, shall develop standard specifications for repetitively procured items and service.
- (B) Every specification shall be prepared to assure broadest possible bidder participation consistent with the needs of the using agency or department.
- (C) Alternate specification provisions for any particular bid invitation may be established by concurrence of the purchasing officer and the requisitioning department or agency.

1-7.20.050 Requisitions. The purchasing officer will issue each purchase order only in consequence of having received a written requisition. The purchasing officer shall supply requisition forms and administer their usage in accordance with applicable regulations.

1-7.20.060 Formal Contract Procedures. Except as otherwise provided in this section purchases of supplies and equipment of an estimated value greater than \$5,000.00 shall be by formal, sealed, written, competitive bids. Awards for such expenditures shall be made by the Tribal Council to the lowest responsible bidder in accordance with the following provisions:

- (A) Lowest responsible bidder as used in this chapter means that bidder which best responds in price, quality, service, fitness or capacity. to the particular requirements of the Tribe. Price alone shall not be the determining factor but shall be considered along with other factors including, but not limited to, the ability of the bidder to deliver, availability of parts or service, prior experience with the bidder, and other factors relating to the particular needs of the Tribe for the supplies or equipment to be purchased.
- (B) Notice inviting bids shall be advertised by the Tribal Council Treasurer by publishing said notice in a newspaper of general circulation at least five days prior to the date of opening of bids, or posted for five days in three public places on the Reservation designated by the Tribal Council and shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening of the bids. The notice shall specify the factors referred to in

subsection A which will be given special consideration in determining the lowest responsible bid for the supplies or equipment to be purchased. All such bids shall be filed with the Treasurer of the Tribal Council and opened by him/her at the time and place specified in the notice inviting bids. Any bidder may be present during said bid opening and may inspect any such bid. The purchasing officer shall evaluate all bids and present his/her recommendation as to the lowest responsible bidder to the Tribal Council, together with a summary of all bids received.

(C) The purchasing agent shall also solicit sealed bids from all responsible prospective suppliers, including those whose names are on the bidders list, or who have made written requests that their names be added thereto, except those removed from the list for cause.

(D) When deemed necessary by the purchasing agent, bidder's security may be prescribed in the notices inviting bids. Bidders shall be entitled to return to bid securities; provided, however, that a successful bidder shall forfeit his/her bid security upon his/her refusal or failure to execute the contract within the time designated in the bid specifications. The Tribal Council, on refusal or failure of the successful bidder to execute the contract may award the contract to the next lowest responsible bidder. If the Tribal Council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the Tribe to the contract price differential between the lowest bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

(E) In the event that Tribal Council finds that it is in the public interest and necessity to purchase supplies, services or equipment without compliance with the formal contract procedures set forth in this section, it may waive such procedures by so declaring with a separate motion or resolution adopted by a two thirds vote of its members.

1-7.20.070 Informal Contract Procedures. Subject to other applicable provisions of this chapter, purchasing of supplies and equipment of an estimated value in the amount of five thousand dollars or less may be made by the purchasing officer in the open market pursuant to the procedures prescribed in this section without observing the procedures prescribed in Section 4.08.060. Such purchases shall be based, whenever possible, on competitive bids; provided, however, all bidding may be dispensed with for purchase of supplies and equipment having a total estimated value of less than one thousand dollars.

(A) Informal contract purchases having an estimated value in excess of one thousand dollars but no greater than five thousand dollars may be based on informal written bids and shall be awarded by the purchasing officer, after recommendation by using department or agency, to the lowest responsible bidder. Informal contract purchases having an estimated value less than one thousand dollars but greater than one hundred dollars shall be based on either verbal or written bids at the discretion of the purchasing officer and may be awarded by him/her with the approval of the Treasurer.

- (B) Notices inviting bids shall include a general description of the article to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening of the bids.

1-7.20.080 Purchase Orders. Purchase of supplies and equipment shall be made in accordance with administrative regulations adopted by the Tribal Administrator governing the preparation and issuance of purchase orders. Except as otherwise prescribed in this chapter, the administrative regulations shall establish responsibilities for processing of purchase orders, and no exceptions may be made unless specifically provided for in the regulation.

1-7.20.090 Receipt of Goods. The using department shall inspect any supplies and equipment upon receipt to verify that they conform in quantity and quality as specified by the purchase order. Before payment is authorized, satisfactory receipts of goods must be established as prescribed in the administrative regulations governing process of purchase orders.

1-7.20.100 Emergency Procurement: Delivery of Requisition. When an emergency requires immediate procurement of supplies and equipment, the using or concerned department shall, after approval by the Tribal Administrator, or acting Tribal Administrator, or in the event of his/her absence, the Chairperson of the Tribal Council, or in the case of the absence of both, on its own authority, immediately deliver a requisition to the Tribal Administrator's office, which will expedite verification of funds available and complete the preparation of the purchase order, returning the vendor's copy to ordering department "on the spot" to enable immediate purchase.

1-7.20.110 Emergency Procurement: Purchase Order. If at the time of the emergency the purchasing agent is unavailable, the department head, having proceeded in accordance with Section 4.08.100, may order immediately the needed commodity from the nearest available source. As soon as possible thereafter, the department head shall submit to the purchasing officer a requisition having the approval as originally obtained, if any, and a notation that the commodity has been ordered on an emergency basis from the vendor designated. The purchasing agent shall prepare a purchase order in accordance with procedural regulations governing purchase orders and shall identify thereon the orders so confirmed.

1-7.20.120 Emergency: Situations Specified. For the purposes of this section and Sections 4.08.100 and 4.08.110, an emergency shall be deemed to exist only if:

- (A) There is a great public calamity; or
- (B) There is an immediate need to prepare for national or local emergency; or
- (C) There is a breakdown in machinery or essential service which requirements the immediate procurement of supplies and equipment to protect the public health, welfare or safety, or
- (D) An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed purchase would cause an undue delay in procurement of the needed item.

1-7.20.130 Central Stores. Selected commodities with recurring high usage rates may be stocked and issued from a central facility under the direction and control of the purchasing agent. The purchasing agent shall examine usage rates for various commodities and, in coordination with using departments, expand or reduce the quantities and types of items in central stores.

(A) Central stores items shall be replenished as needed from the purchasing revolving fund established in Section 1-7.20.140 below, or through regular purchasing procedures. The inventory levels of commodities on hand shall be determined by the purchasing officer, based on economic and demand factors.

(B) Detailed instructions for ordering and accounting methods shall be set forth in administrative regulations governing the central stores operation.

(C) Issue procedures shall be conducted with due regard for convenience of the using departments and agencies.

1-7.20.140 Revolving Fund. There is established a revolving fund under the direction and control of the purchasing officer. The revolving fund shall be in an amount fixed by the Tribal Council from time to time by resolution. All purchases for the central stores shall be charged to and paid from said revolving fund shall be replenished to that amount by transfer from budgets of such departments.

1-7.20.150 Approval of Expenditures. Except as otherwise authorized by Section 1-7-20.010 and Section 1-7-20-020, expenditures not exceeding one thousand dollars may be approved by the purchasing officer based on budgetary provisions. Expenditures in excess of one thousand dollars shall have the approval of the Tribal Council prior to the issuance or a purchase order. Orders shall not be divided or staged for the purpose of circumventing the approval required in this section.

1-7.20.160 Availability of Funds. Except in cases of emergency or when Tribal Council authorization has been first obtained, the purchasing officer shall not issue any purchase order unless there exists an unencumbered balance in the appropriation for the object for which said purchase is to be made.

1-7.20.170 Disposition of Obsolete or Surplus Property. Each using department or agency shall; submit at least annually (or oftener) to the purchasing officer in the form and manner he/she shall prescribe, reports describing all supplies, equipment, materials, fixtures, and other personal property of the Tribe in the agency's custody which is surplus to need or which has become obsolete or unserviceable.

(A) Subject to the provisions of subsection E, the purchasing officer is authorized, from time to time, to sell or exchange any and all equipment, materials, fixtures, and other personal property of the Tribe having a salvage value and which is obsolete or unserviceable, or is surplus to the Tribe, or for which replacement is to be purchased. He/she may sell the same for the best price obtainable in and open market, or, when he/she deems it advisable, to the highest bidder at a public sale, or, he/she may exchange the same for other property or for credit on other property.

(B) In the event the purchasing officer determines that any such obsolete or surplus property has no salvage value, he/she may dispose of it as he/she deems advisable.

(C) All sales shall be for cash or for certified check or money order payable to the Tribe.

(D) The purchasing officer shall have the authority to sign bills of sale and any other papers or documents evidencing transfer of title of said property for or on behalf of the Tribe.

(E) Prior to disposing of any obsolete or surplus personal property having an apparent market value in excess of one thousand dollars, the purchasing officer shall inform the Tribal Council of the nature of the personal property proposed for disposition and the price offered and obtain the approval of the Tribal Council for disposition.

1-7.20.180 Exceptions to Centralized Purchasing. The purchasing officer, with approval of the Tribal Council, may authorize, in writing, any agency or department to purchase specific supplies and equipment independently of the purchasing officer; but he/she shall require that such purpose shall conform with the procedures established in this chapter, and shall further require occasional reports from the agency on the purchases made under such authorization.

Section 1-7.30 Unclaimed Property

1-7.30.010 Unclaimed Property Defined.

(a) “*Unclaimed property*” means the personal property of others which has come into the possession of the Tribe, left in its possession, or turned over to it by the person who found or received the same, excluding: (1) Property subject to confiscations under the laws of the Tribe or of the United States; (2) Vehicles, the storage, sale or disposition of which is the subject of an agreement between the Tribe and the County of Mendocino and which is governed by the provisions of the Mendocino County Code.

1-7.30.020 Storage: Return to Owner. Except as otherwise provided by the laws of the United States of America or the provisions of this chapter, all unclaimed personal property in the possession of the Tribe shall be stored in a safe place by the Tribal Administrator for at least six months; provided, however, that the Tribal Administrator shall restore such property to its legal owner immediately upon proof of such ownership satisfactorily to him/her and upon the payment of all reasonably necessary costs in the care and protection thereof by cash or certified check, unless such property is held by the Tribal police as evidence in a pending case, in which case it shall be disposed of only upon order of the Tribal Court.

1-7.30.030 Auction: Publication of Notice. At any time after the expiration of said six month period, the Tribal Administrator shall, upon order of the Tribal Council, publish once in a newspaper of general circulation a notice of his/her intention to sell at public auction to the highest bidder at the time and place therein specified, all such unclaimed personal property.

1-7.30.040 Auction: Procedure. The sale shall be held not less than five days after the publication of said notice, and each item shall be separately sold at public auction to the highest bidder.

1-7.30.050 Auction: Expenses and Proceeds. The expense connected with such sale shall be a proper charge against the funds of the Tribe and all proceeds received from said sale shall be delivered to the CFO for deposit into the general fund.

1-7.30.060 Auction: Report of Unsold Items. The Tribal Administrator shall report any items remaining unsold after said public auction to the Tribal Council which shall instruct the Tribal Administrator what disposition shall be made thereof in the Tribe's interest,

1-7.30.070 Exemptions: Property Subject to Confiscation. The provisions of this chapter shall not apply to property subject to confiscation under the laws of the Tribe or of the United States of America.

1-7.30.080 Exemptions: Disposal. Any perishable goods, or property which shall be contrary to public policy for the Tribe to retain, shall be disposed of in such manner as the Tribal Administrator may in the Tribe's interest determine.

1-7.30.090 Exemptions: Money. If any unclaimed personal property consists of money, it shall be deposited with the CFO to be disposed of in the manner provided by law.

1-7.30.100 Bicycles and Toys. Any bicycles or toys, or both, in the possession of the Tribe which have been unclaimed for a period of at least sixty days may, instead of being sold at public auction to the highest bidder be turned over to any charitable or nonprofit organization which is authorized under its articles of incorporation to participate in a program or activity designed to prevent juvenile delinquency and which is exempt from income taxation under federal or state law, or both, for use in any program of activities designed to prevent juvenile delinquency or distributed by the Tribal Administrator to any needy member or members of the Tribe.

History of Amendments: Adopted December 16, 2009. Ordinance No. 09-12-16B (Administrative Code).

CHAPTER 1-8**LIMITATION ON TRIBAL OFFICERS' AND
EMPLOYEES' LIABILITY**

Section 1-8.10 Definitions As used in this Ordinance, the following terms shall have the following meanings:

(a) “*Elected official*” means the Chairperson, Vice- Chairperson, Secretary, Treasurer, and Council Members of the Hopland Tribal Council.

(b) “*Tribal Council*” means the Tribal Council of the Hopland Band of Pomo Indians as established by the Constitution of the Hopland Band of Pomo Indians.

(c) “*Tribal Economic Enterprise*” means an enterprise wholly owned and operated by the Hopland Band of Pomo Indians for the purpose of generating revenue to fund essential Tribal governmental programs and services or to create employment opportunities.

(d) “*Tribal Employee*” means a person employed by the Tribe, its agencies, departments, or economic enterprises for the purpose of providing Tribal governmental services, programs or employment.

(e) “*Tribal official*” means a person who has been appointed by the Hopland Tribal Council to hold an office with the Tribe.

(f) “*Tribe*” means the Hopland Band of Pomo Indians, a quasi-sovereign governmental entity possessing inherent powers of self-government and -which maintains a government-to-government relationship -with the United States of America.

Section 1-8.20 Sovereign Immunity of the Tribe. Except as other-wise provided by a duly enacted Ordinance of the Hopland Tribal Council or a Resolution of the Hopland Tribal Council adopted pursuant to such authorizing Ordinance, explicitly -waiving the Tribe’s sovereign immunity from unconsented suit, the Hopland Band of Pomo Indians:

(A) Does not consent to be sued and is not subject to suit in any administrative or court proceeding; and

(B) Is not liable for any act or omission of any Tribal officer, elected official, Tribal employee, or any other person, organization, or entity owned or operated by the Tribe.

Section 1-8.30 Immunity of Elected Officers, Tribal Officials and Tribal Employees.

Except as other provided by Ordinance of the Hopland Tribal Council, a Tribal Officer, Elected Official, and Tribal Employee enjoys sovereign immunity from suit and cannot be sued without the consent of the Hopland Tribal Council and is not liable for any injury resulting from his/her act or omission where the act or omission was the result of the exercise of the discretion vested in him/her, -whether or not such discretion be abused or is the result of negligence on the part of him or her, provided that the negligent act occurred -while the Tribal Official, Tribal

Officer, or Tribal Employee -was carrying out the duties of his/her office, position, or employment.

Section 1-8.40 Assertion of the Defense of Sovereign Immunity by Elected Officials.

Tribal Officers and Tribal Employees. Any Tribal Official, Officer, or Employee shall have the right to assert the defense of sovereign immunity from suit to any law suit brought against him/her resulting from the Tribal Officials, Officers, or Employees carrying out or performing their duties or obligations of their office, position, or employment-with the Tribe.

Section 1-8.50 Intentional Torts and Gross Negligent Acts. Notwithstanding any other provisions of this Ordinance to the contrary, a Tribal Official, Officer, or Employee is liable to a plaintiff for any act or omission which constitutes an intentional tort including, but not limited to, assault, battery, sexual harassment, sexual battery, defamation, and intentional infliction of emotional distress, even if the act or omission constituting the intentional tort arose from and was directly related to the Tribal Official's, Officer's, or Employee's performance of his or her official duties or -within the course, and scope of their employment.

Section 1-8.60 General Provisions

1-8.60.010 Severability. If any Court of competent jurisdiction determines that any of the provisions of this Ordinance are invalid, the remaining provisions of this Ordinance shall remain in full force and effect. The Hopland Tribal Council declares that it would have enacted each of the Sections of this Ordinance separately and, to that end, declares that each of the provisions of this Ordinance are severable.

1-8.60.020 Effective Date. The provisions of this Ordinance shall take effect immediately upon their passage.

History: Adopted in Ordinance 99-2-23.

CHAPTER 1-9**HEARING PROCEDURE**

Section 1-9.10 Applicability.

1-9.10.010 This Ordinance shall apply to all hearings before the Tribal Council in the nature of a judicial or quasi-judicial proceeding. Such judicial or quasi-judicial hearings usually involve the legal rights of specific parties in a contested setting.

1-9.10.020 This Ordinance shall not apply to legislative hearings before the Tribal Council. Such legislative hearings usually involve public input on legislative decisions on matters of policy or law and typically affect a wider range of persons.

Section 1-9.20 Notice. The Tribal Council must give written notice to all persons required to appear and participate in a judicial or quasi-judicial hearing before the Tribal Council. Such notice may include publication in the tribal newsletter, posting on or near tribal buildings, or mailing notice to specific parties. The notice should be provided a reasonable number of days before the hearing to allow the participants sufficient time to prepare.

Section 1-9.30 Hearing Officer. The hearing shall be called by the Tribal Chair, who will serve as the Hearing Officer. In the absence of the Tribal Chair, the Tribal Council will determine who among the Tribal Council will act as Hearing Officer. The remainder of the Tribal Council will serve as a quasi jury during the hearing.

Section 1-9.40 Rules of Hearing.

1-9.40.010 The Hearing Officer shall announce the rules of the hearing at the beginning of the hearing. The hearing shall be informal, without the necessity of oaths or affirmations or formal rules of evidence. The Tribal Council shall hear the evidence and make a decision as appropriate based on the record. The Tribal Council shall not be bound by technical rules of evidence in the conduct of the hearing, and no informality in any proceeding, as in the manner of taking testimony, shall invalidate any order or decision issued by the Tribal Council.

1-9.40.020 At a minimum, any party who is the subject of the hearing shall have the right to review any evidence relevant to the subject matter of the hearing, and to present evidence, documents, and witnesses in support of his or her position. The Hearing Officer shall determine the order in which witnesses will be heard and evidence presented.

1-9.40.030 All witnesses, participants, and parties shall direct their statements and testimony to the Hearing Officer or Tribal Council; not to any other witness, participant or party. There shall be no cross-examination. The Hearing Officer and Tribal Council, subject to the approval of the Hearing Officer, may ask questions of the witnesses, participants, and parties.

Section 1-9.50 Attorneys. The Tribal Council may have the advice and assistance of the Tribal Attorney during the hearing. Any party or participant may have the advice and assistance of counsel during the hearing at his or her own expense.

Section 1-9.60 Open Hearing. Unless ordered by the Hearing Officer for reasons of safety or confidentiality, all hearings shall be open to the tribal membership. The Tribal Council may convene in executive session and exclude the public to deliberate and make its decision.

Section 1-9.70 Decision.

1-9.70.010 The Tribal Council's decision on a judicial or quasi-judicial matter must be based on and supported by a record of the matter. The record will consist of all testimony or comment presented at the hearing and all documents or exhibits that have been submitted in connection with the matter being considered-

1-9.70.020 Any matter to be proved must be proved to the satisfaction of the Tribal Council by a preponderance of the evidence (i.e., more likely than not).

1-9.70.030 At the final close of the hearing, the Tribal Council may take immediate action or take the matter under advisement for decision at a later time. The Tribal Council shall issue its decision in writing within a reasonable time of the hearing and serve the decision on the participants or parties.

Section 1-9.80 General Provisions

1-9.80.010 Sovereign Immunity. Nothing in this Chapter is intended to waive the sovereign immunity of the Tribe and this Ordinance shall not be so construed.

1-9.80.020 Repealer This Ordinance supersedes, replaces, and repeals all conflicting provisions of any and all prior laws, codes, ordinances, rules, and regulations of the Tribe. If the provisions of this Ordinance conflict with the provisions of any other law, code, ordinance, rule or regulation, the provisions of this Ordinance shall control.

1-9.80.030 Severability. If any provision of this Ordinance, or its application to any person or entity, is held to be invalid by a court of competent jurisdiction, the remainder shall not be affected and shall remain in full force and effect.

1-9.80.040 Effective Date. This Ordinance shall be effective upon the date of its approval by the Tribal Council.

History: Adopted in Ordinance 08-01-08.

Section 1-10.10 Definitions. In construing the provisions of this Ordinance, the following words or phrases shall have the following meanings:

(a) “*Council*” or “*Tribal Council*” means the Tribal Council for the Hopland Band of Pomo Indians.

(b) “*Confidential Information*” means any information pertaining to: (1) land acquisitions by the Tribe; (2) fee to trust transfers by the Tribe to the United States; (3) negotiations with State and local governments; (4) contract negotiations with lenders or third party financiers to finance tribal projects; (5) whether to initiate or defend threatened litigation; (6) pending litigation.

(c) “*Council Member*” means a member of the Hopland Tribal Council.

(d) “*Tribe*” means the Hopland Band of Pomo Indians.

(e) “*Tribal Member*” means an enrolled member of the Hopland Band of Pomo Indians.

(f) “*Video and Recording Devices*” means any device capable of recording or transcribing conversations and/or confidential information discussed during a Tribal Council or General Membership meeting.

Section 1-10.20 Penalty for Failure to Abide by this Ordinance. No Tribal Member shall record and disclose to any person, organization, or entity any confidential information discussed in a duly called meeting of the Hopland Band of Pomo Indians unless the Tribal Council, by a majority vote, agrees that the Confidential Information, or a portion of it, may be disclosed to the general public. Any Tribal Member who knows or has reason to believe that another person has used a video or recording device without the consent or approval of the Tribal Council shall immediately notify a member of the Tribal Council of such facts. The Tribal Council shall conduct a thorough investigation and findings of charges. Then prepare and serve on the Tribal Member who is believed to have breached this Ordinance, a written statement charging the Tribal Member with a violation. The Tribal Council shall then schedule a meeting to consider whether or not the charges are well founded. If the Tribal Council finds the charges to be true, the Tribal Council shall vote on the actions to be taken against the accused.

Section 1-10.30 Effective Date. This Ordinance shall take effect immediately after its adoption by the Tribal Council and shall remain in effect until otherwise rescinded.

History: Adopted in Ordinance No. 99-11-20A

CHAPTER 1-11 Administrative Procedure Act

Section 1-11.10 General Provisions

1-11.10.010 Short Title. Chapter 1-11 of the Hopland Tribal Code (“Chapter”) shall be known as the Hopland Band of Pomo Indian’s (“Tribe”) Administrative Procedure Act.

1-11.10.020 Purpose. The purpose of this Chapter is to provide tribal members and all employees with the means to assure that duly appointed tribal officials act according to the Tribe’s Constitution, duly enacted ordinances, and regulations adopted by the Tribal Council, and properly authorized tribal governmental written procedures embodied in manuals that have been duly adopted by the Tribal Council or authorized departments or agencies of the Tribe when carrying out their official duties.

1-11.10.030 Declaration of Policy. The Tribal Council declares the following objectives shall be accomplished by adopting this Chapter:

- (A) To grant jurisdiction to the Tribal Court to review the actions of Tribal officials to determine whether the official’s actions have violated Tribal law, if the action is brought by a member of the Hopland Band of Pomo Indians who is an adult or any person who is an employee.
- (B) To grant to the Tribal Court the authority to award declaratory and injunctive relief against Tribal officials when, in carrying out their official duties, they act in violation of the Tribe’s Constitution, duly enacted ordinances, regulations or procedures embodied in manuals that have been adopted by the Tribe.
- (C) To grant to the Tribal Court the authority to order tribal officials to carry out their duties under Tribal law in the event that action by Tribal officials pursuant to a lawful request is unreasonably delayed.
- (D) To provide a limited waiver of sovereign immunity for Tribal Agencies to allow the Tribal Court to review the conduct of tribal officials in carrying out their duties and to order them to comply with tribal law. However, this limited waiver of sovereign immunity does not apply to the Tribe, the Tribal Council, or any member of the Tribal Council acting in his or her official capacity.

1-11.10.040 Exclusive Remedy. This Chapter shall provide the exclusive method for a tribal member or employee to obtain review of any decision by a tribal official, employee, department or agency or to obtain agency action when such action is unreasonably delayed or conducted in violation of tribal law.

1-11.10.010 Limited waiver of immunity. The Tribal Council expressly waives the sovereign immunity of Tribal Agencies to the extent necessary to allow the Tribal Court (and only the Tribal Court) to review an Agency Decision and to make the determinations and provide the relief set forth in this Chapter. This waiver does not apply to suits against the Tribe, the Tribal Council, or any member of the Tribal Council acting within his or her official capacity.

The Tribal Court shall construe this limited waiver narrowly to effect the purposes of this Chapter and for no other purpose.

1-11.10.020 Repeal. This Ordinance repeals and replaces all prior ordinances, rules and regulations inconsistent and in conflict herewith.

1-11.10.030 Severability. If any part of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of any such part or provision to the other persons or circumstances, should not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable so long as the legislative intent of this Ordinance remains.

1-11.10.040 Effective Date. This Ordinance shall become effective on the date that it is adopted by the Tribal Council and shall apply retroactively.

Section 1-11.20 Definitions

(a) “Agency” means tribal committees, boards, agencies, commissions, departments, officers, officials, enterprises, and/or employees authorized to act or refrain from some action by tribal law. “Agency” shall not include the Tribal Court or any Judge of the Tribal Court and shall not include the Tribe, the Tribal Council or any member of the Tribal Council acting in his or her official capacity.

(b) “Agency Decision” means a final decision of an Agency. “Agency Decision” also means the failure of an Agency to act or act within a reasonable period of time. Decisions for which there is a means of appeal within the agency are not “Agency Decisions” for purposes of this Chapter.

(c) “Authorized representative” means a person, not an attorney, who agrees in writing to represent the petitioner.

(d) “Employee” means a person employed and paid by the Tribe or a Tribal Agency.

(e) “Petition” means an action brought under this Chapter.

(f) “Petitioner” means a party bringing an action under this Chapter.

(g) “Reservation” means all land within the boundaries of the Hopland Indian Reservation and any land the title of which is owned by the United States of America in trust for the Tribe.

(h) “This Chapter” means Chapter 1-11 of the Hopland Tribal Code.

(i) “Tribe” means the Hopland Band of Pomo Indians of California.

Section 1-11.30 Jurisdiction

1-11.30.010 Matters that may be reviewed. Any Agency Decision, except as otherwise limited by this Title or by any other duly enacted ordinance *are* reviewable by the Tribal Court.

1-11.30.020 Matters that may not be reviewed. The following matters shall not be reviewed by the Tribal Court:

- (A) Decisions of the Tribal Court may not be reviewed, except through a motion for reconsideration or an appeal;
- (B) Any matter for which Tribal administrative procedures have not been exhausted, including exhaustion under the applicable Personnel Policies & Procedures Manual; and
- (C) The termination of an at-will employee unless the termination breaches a contract or violates Tribal law.
- (D) Matters that are decided by an Agency through exercise of its discretionary authority Where a matter is discretionary with an agency official, the Tribal Court lacks jurisdiction to review such decision and such decision is not an Agency Decision for the purpose of This Chapter.

Section 1-11.40 Procedures for Bringing an Action in Tribal Court

1-11.40.010 Who may petition the Tribal Court for review.

- (A) An employee of the Tribe or an Agency or any adult member of the Tribe may bring an action in Tribal Court to review an Agency Decision on his or her own behalf that adversely affects him or her, or on behalf of a member who is too young to vote or is under other disability, provided the person on whose behalf the action is being brought has an interest which is adversely affected by the Agency Decision at issue.
- (B) To the extent an Agency Decision is subject to review within the agency making the decision, that decision must first be appealed within that agency and all administrative remedies exhausted.
- (C) Where review is otherwise limited by tribal ordinance or a duly adopted regulation, a decision may not be reviewable under This Chapter.

1-11.40.020 How taken.

- (A) Any person meeting the eligibility criteria established under Section 17.050.010 above may petition the Tribal Court for review of an Agency Decision. If the petition is filed by an authorized representative, the representative must submit written evidence of his/her authority to represent the petitioner.
- (B) A petition shall include:

- (1) A full identification of the decision for which review is sought, a copy of the decision, copies of all relevant documents, references to relevant ordinances, regulations and other guidance.
 - (2) A statement of the reasons for the petition and the relief sought.
 - (3) The names and addresses of all additional interested parties that have rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in any earlier proceedings.
- (C) The petition and all subsequent pleadings filed in the action shall comply with the Court's rules of procedure and evidence.

1-11.40.030 Service.

- (A) A copy of the petition, and any subsequent pleadings, shall be served upon each known interested party and upon the Agency and the officer who is the head of the Agency making the decision for which review is sought. Tribal Police shall not be used to effect service under this Ordinance.
- (B) Any petition that is filed with the Court shall certify that service was made as required by this Section, shall show the names and addresses of all parties served and shall show the method of service.

1-11.40.040 Mandatory time for filing. A petition shall be filed within 30 days after receipt by the petitioner of the Agency Decision for which Tribal Court review is sought. Failure to timely file the petition shall bar review of the petition.

1-11.40.050 Preparation assistance. When the petitioner is not represented by legal counsel, the petitioner may request assistance of any person in preparing the petition and prosecuting the action. Such person shall become the authorized representative for the petitioner.

1-11.40.060 Extensions of time.

- (A) The time for filing or serving any document except the filing of a petition may be extended by the Tribal Court.
- (B) A request filed with the Tribal Court for an extension of time must be filed within the time originally allowed for the filing.
- (C) For good cause the Tribal Court may grant an extension of time on its own initiative.

1-11.40.070 Retention of documents. The Agency shall file with the court and serve on petitioner the record, if any, within sixty (60) days after service of the petition. All documents received in evidence at a hearing or submitted for the record in any proceeding before the Tribal

Court will be retained with the official record of the proceeding. The Court, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Court.

1-11.40.080 Decisions. Decisions of the Tribal Court will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion or order constituting an Agency Decision. A copy of the Court's decision shall be sent by the Court to all parties concerned and to the Tribal Council. The decision of the Tribal Court will be final except for appeal to a higher tribal court.

1-11.40.090 Amicus Curiae: intervention: joinder motions. The Tribal Council or any interested tribal member desiring to intervene or to join other parties or to appear as amicus curiae before the Court in any action filed under This Chapter shall apply in writing to the Court stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to any limitations established by the Court.

1-11.40.100 Reconsideration. Reconsideration of a decision of the Court will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Court within 30 days from the date of the decision and shall contain a detailed statement of the reasons why reconsideration should be granted.

- (A) A party may file only one petition for reconsideration.
- (B) The filing of a petition shall not stay the effect of any decision or order and shall not affect the finality of any decision or order, unless so ordered by the Court.

1-11.40.110 Standards of conduct. All inquiries with respect to any matter pending before the Court shall be made to the Chief Judge or to the Judge assigned to the matter.

Section 1-11.50 Scope of review. Any review shall be limited to those issues which were before the Agency official. The Court may remand decisions to Agency officials for reconsideration in light of the Court's decision. To the extent necessary to a decision and when presented, the Tribal Court shall decide all relevant questions of law, interpret Constitutional and statutory provisions, and determine the meaning or applicability of the terms of an Agency Decision. The Tribal Court shall have the power to:

- (A) Order an Agency Decision implemented that has been unlawfully withheld or unreasonably delayed; and
- (B) Set aside any Agency Decision, including findings and conclusions, found to be:
 - (1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;
 - (2) Contrary to Constitutional right, power, privilege, or immunity;

- (3) In excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
 - (4) Without observance of procedure required by law; or
 - (5) Unsupported by substantial evidence in a case subject to review on the record of an Agency hearing provided by statute;
- (C) In making the foregoing determinations, the Tribal Court shall review the whole record or those parts of it cited by a party and deference should be given to an Agency Decision.

History: Adopted in Ordinance No. 09-12-16A (APA)

TITLE 2 MEMBERSHIP

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Section 2-1.10 Eligibility. The membership of the Hopland Band of Pomo Indians shall be:

- (A) Persons of the Hopland Indian decent whose names appear on the final Hopland Rancheria Distribution Plan dated June 18, 1961.
- (B) Children born to any person of Hopland Pomo Indian descent designated on the Hopland Rancheria Distribution Plan dated June 18, 1961.
- (C) All persons of Hopland Pomo Indian descent who reside on or who own or lease land on the Hopland Rancheria.
- (D) All other persons of Hopland Pomo Indian descent who can to the satisfaction of the Tribal Council, by procedures established by them, demonstrate a substantial connection with the Hopland Rancheria.
- (E) All other persons of Indian descent who can to the satisfaction of the General Council demonstrate a substantial connection with the Hopland Rancheria. The Tribal Council shall screen all applicants for acceptability under this clause to be voted upon by the General Council at the next regularly scheduled meeting.

Section 2-1.20 Definitions. In reference to the foregoing the phrases listed below shall be defined as follows:

- (a) *“Satisfaction of the Tribal Council.”* Legal affidavits or expert witnesses in support of the applicant’s claim of eligibility.
- (b) *“Procedures Established by Them.”* A hearing before the Tribal Council at which time a decision will be made by a vote of the Tribal Council.
- (c) *“Demonstrate a Substantial Connection.”*
 - (1) *Proof of lineal descendancy to a Hopland Pomo Indian.*
 - (2) *Legal Adoption: Minor children adopted by Tribal members, or non-Indians, who would otherwise qualify under eligibility, Section 2-1.10 (A) through (E).*
- (d) *“Hopland Pomo Indian Descent.”*

- (1) *Original inhabitants of the Hopland Rancheria.*
- (2) *Hopland Rancheria Distribution Plan dated June 18, 1961, meaning only those descendants that original inhabitants of the Hopland have been born to our Rancheria.*
- (3) *Lineal descendent of a person on the 1961 distribution plan or Original inhabitant of the Hopland Rancheria or Reservation.*

Section 2-1.30 Ineligibility

A person who meets the requirements in parts A, B, C, D, or E, of Section 2-1.10 shall not be enrolled if he/she is:

- (A) A person or his/her minor dependant who has been allotted or received a land use assignment on another reservation; provided, however, that nothing in this section shall prevent a person who has inherited an allotment or land use assignment on another Indian reservation and who is otherwise eligible for enrollment from being enrolled on the Hopland Tribal roll.
- (B) A person or his/her minor dependant who is officially enrolled with or is a recognized member of some other Tribe or band unless such person relinquishes his/her membership with such Tribe or band and presents to the Hopland Tribal Council legal affidavits to support his/her actions. A recognized member of another Tribe or band is a person whose name is listed on the membership roll of another Tribe or band.
- (C) Non-Indians adopted by Tribal members will not be eligible for Tribal membership with the Hopland Band of Pomo Indians.

Section 2-1.40 Filing an Application

All individuals desiring membership shall file a written application prescribed by the Tribe. Applications may be filed on behalf of a minor or legally incompetent person by their respective legal guardian.

The burden of proof in establishing eligibility for membership is upon the applicant. Documentation of birth and parentage is required. Certificate of birth, certificates of death, baptismal records, copies of probate filings, affidavits, paternity statements, marriage licenses, adoption records or records of the Bureau of Indian Affairs and Tribe are types of documentary evidence to establish eligibility.

Section 2-1.50 Tribal Enrollment Committee

The Tribal Council shall appoint a three member committee from the General Council to serve as the Tribal Enrollment Committee. At least one committee member shall be a member of the Tribal Council. Committee members shall be appointed for one year terms. The Enrollment Committee shall dispense information regarding eligibility requirements and the enrollment process, distribute and receive applications for enrollment, request additional information or

documentation from applicants if necessary, review applications and make its recommendation for approval or disapproval to the Tribal Council.

Section 2-1.60 Enrolling Period

Within thirty days after the approval of this ordinance, the Tribal Enrollment Committee shall designate and announce the place and time for filing applications to appear on the Initial membership roll. The filing period shall not be less than thirty days from the posting of the announcement. Thereafter, applications for enrollment may be filed with a member of the Tribal Enrollment Committee, to be opened for a 30 day period, designated by the Enrollment Committee which shall be once annually.

Section 2-1.70 Approval and Disapproval of Application

Except for applicants who file under Section 2-1.10(E), the Tribal Council shall approve or disapprove all applications for membership within the thirty day period as cited in Section 2-1.60 from the submittal of the application. The General Council shall vote for acceptance or rejection of applicants who file applications under Section 2-1.10(E) after they are screened by the Tribal Council. The Tribal Council shall notify each applicant of the determination on their application. Disapproved applicant shall be notified by certified mail-return receipt requested of the reason(s) for the adverse decision and of the right to appeal. An applicant who files an application under Section 2-1.10(D) shall have the right to a hearing at the time the Tribal Council takes action on the application.

Section 2-1.80 Appeal

Persons who have been refused membership shall have the right to appeal the decision to the General Council of the Hopland Band of Pomo Indians at the next General Council meeting. The appellant shall be entitled to a hearing before the General Council at the time his/her appeal is presented. To initiate the appeal process an appeal must be in writing and filed with the Tribal Council Secretary within thirty days after receipt of the notice of rejection. Another Tribal member or an attorney-at-law may act in the rejected applicant's behalf during the appeal hearing(s), except for medical reasons, physical presences is required of the rejected applicant. The decision of the General Council on appeals shall be final.

Section 2-1.90 Membership Roll Preparation

After final action has been taken on all applications, the initial roll shall be prepared with the names of all qualified applicants listed thereon and the Tribal Council shall affix a certification as to correctness of the roll. The membership roll shall be displayed at several public places and also posted in the Tribal Newsletter. Any person claiming membership rights in the Hopland Band of Pomo Indians may protest the inclusion or omission of a name on or from the roll. All protests must be in writing and filed with the Tribal Council Secretary within sixty days from the date the proposed roll is placed on public display. The decision of the General Council on any protests received shall be final.

After the Tribal roll has been finalized and approved by the Hopland Tribal Council, it shall be used for all official purposes.

Section 2-1.100 Loss of Membership

The following shall be grounds for loss of membership:

- (A) A person obtained membership through error, fraud, deceit or misrepresentation.
- (B) A person enrolled or received an assignment of land with another Tribe or band without relinquishing his/her membership with the Hopland Band of Pomo Indians.
- (C) A person obtained enrollment through a person disenrolled under (A) of this Section 2-1.100 and does not otherwise meet the requirements for membership.

The burden of proof in a disenrollment action is upon the Tribe. Written notice by certified mail-return receipt requested shall be given to the person being disenrolled. The notice should inform the person of the reason(s) for the action and of the right to explain in a hearing on a date of his or her choice why he or she should not be disenrolled. If after the hearing it is the decision of the General Council to disenroll a member, the person shall be notified by certified mail-return receipt of the action taken.

Section 2-1.110 Keeping the Membership Roll Current

The Tribal enrollment Committee shall be responsible for revising the membership roll annually or on a designated date by:

- (A) Adding the names of persons who meet the enrollment requirements of this ordinance.
- (B) Striking the names of persons who relinquish their membership, were disenrolled in accordance with Section 9, or of deceased persons upon receipt of documentation of death.
- (C) Making corrections to the roll such as dates of birth, name changes and address changes provided such corrections are supported by satisfactory evidence.

Section 2-1.120 Relinquishment of Membership

Any member who relinquishes his/her membership with the Hopland Band of Pomo Indians by submitting a request in writing to the Tribal Council which shall approve the request. Relinquishment of membership must be for a minimum of 5 years.

History: Adopted in Ordinance No. 84-06-27

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Section 3-1.10 Definitions.

(a) “*Election*” shall include the following: elections to the Tribal Council as provided for in Article 5; a recall election as defined by Article 6, Section 2; an election to amend the Constitution as provided for in Article 5, Section 7 and Article 14; a special election as defined by Constitution Article 7, Section 1; and a referendum as defined by Article 15.

(b) “*Eligible Tribal Member*” shall mean any enrolled Tribal member who is 18 years or older on the date of any scheduled Election.

(c) “*Interested Person*” shall mean a candidate for tribal office or the person who sponsored, or is the subject of, a Constitutional Amendment, referendum, or recall.

(d) “*Qualified Voter*” shall mean a person who meets the criteria set forth in Article V, Section 1 of the Tribe’s Constitution: any enrolled Tribal member who is 18 years or older on the date of any scheduled Election and who is duly registered to vote pursuant to the Tribe’s voter registration system.

Section 3-1.20 Conformity with Tribe’s Constitution. All Elections shall be conducted in conformity with the Tribe’s Constitution. Where any provision of this Chapter conflicts with any provision of the Constitution, the provision of the Constitution shall prevail.

CHAPTER 3-2 ELECTION COMMITTEE

Section 3-2.10 Qualifications. The Election Committee shall be composed of 5 to 7 Eligible Tribal Members. Election Committee members shall not be Tribal Council members, an Administrative Officer or Appointed Official as defined by Tribal law.

Section 3-2.20 Appointment and Terms of Office. All Election Committee members shall be appointed by the Tribal Chair and confirmed by the Tribal Council. Terms of office shall be for 2 years.

Section 3-2.30 Vacancy of Election Committee. If a vacancy on the Election Committee occurs, the Tribal Chair shall appoint a new committee member subject to the approval of the Tribal Council.

Section 3-2.40 Officers of the Election Committee. The Election Committee shall elect from its members a Chairperson, Vice Chairperson, Secretary, and a Treasurer who shall serve for 2 years.

Section 3-2.50 Budget for Election Committee. Every year the Election Committee shall submit a budget to the Tribal Council that includes all Election costs and other costs necessary to perform their duties as set forth in this Chapter. The Election Committee must comply with all Tribal fiscal policies and procedures.

3-2.50.010 Compensation. If the overall tribal budget permits it, members of the Election Committee, who attend meetings, may receive compensation in an amount approved on an annual basis by the Tribal Council.

3-2.50.020 Funding Elections. Funds for all Elections and Election Committee costs, and supplies, (i.e. ballots, tally lists, etc.), shall be made available through tribal funds. However, the cost of Elections shall be offset by a candidate nomination fee set by the Election Committee before Candidates' Day. The nomination fee shall be placed in tribal funds to help pay for the costs of the Election. The nomination fee shall not be based on the length of the term of office, and must be paid by candidates on Candidates' Day.

3-2.50.030 Election Committee Meetings. Meetings of the Election Committee shall be called in order to conduct all Tribal elections and perform duties as set forth in this Chapter.

3-2.50.040 Monthly Meetings. The Election Committee shall set a place and time for regular monthly meetings. All Election Committee meetings will be conducted on the Hopland Reservation. The Election Committee Secretary shall post a schedule of meetings on or near the Tribal Office door each month. The Election Committee Chairperson shall update the schedule and inform each Committee member of any changes to time or place of the regular monthly meeting

3-2.50.050 Special Meetings. The Election Committee Chairperson shall provide notice of all Special Meetings at least 48 hours before the Special Meeting.

3-2.50.060 Executive Sessions. All Committee meetings shall be conducted in public. There are to be no Executive Sessions.

3-2.50.070 *Quorum of the Election Committee.* A majority of the Committee is required to establish a quorum. The Election Committee shall not conduct any business unless a quorum is present.

Section 3-2.60 Tribal Roll. Twice a year the Secretary of the Tribal Council shall present the Election Committee Chairperson certified and electronic copies of an updated list containing the names, addresses, dates of birth, and enrollment numbers of all Eligible Tribal Members (Tribal Roll).

3-2.60.010 *Special request of Tribal Roll.* If needed, the Election Committee Chair shall make a written request for the Tribal Roll from the Secretary of the Tribal Council. The Secretary of the Tribal Council shall update the Tribal Roll and provide the Election Committee with a current and accurate Tribal Roll within 48 hours of receipt of the written request to do so.

Section 3-2.70 Election Committee Post Office Box. The Election Committee shall arrange with the United State Post Office for a post box to receive Election Committee mail. Two Election Committee members, who are not related to each other, must go together to open the box and receive the mail.

Section 3-3.10 Who may vote. Any Qualified Voter, as defined in the Constitution and this Title 3, shall have the right to vote in an election.

Section 3-3.20 Qualified Voters List. The Election Committee shall keep an up-to-date, alphabetical list of Qualified Voters. This Qualified Voters list shall be posted at the Tribal Office at least twice (2) per year, on or about February 1 and August 1.

Section 3-3.30 Voter Registration System. As required by the Constitution, and to maintain the integrity of the election process, there is hereby established a voter registration system. The procedures set out below are to ensure that the person voting is a Qualified Voter.

3-3.30.010 Notice of Voter Registration System. At least twice a year, the Election Committee shall submit a notice to the Tribal Newsletter advising Tribal members of the Voter Registration System.

3-3.30.020 The Voter Registration Card. The Voter Registration Card must contain the following information: signature; printed name; Tribal enrollment number; current mailing address; and the option to select “voting status” as either absentee ballot or walk-in. It must also include the date of registration and a space for a notary acknowledgment and Election Committee Member’s verification of identity. A Tribal member’s identity must be verified by either a notary or by an Election Committee member.

(A) Verification of Identity By Notary. A Tribal Member may sign the Voter Registration Card in front of a notary, and have the Voter Registration Card notarized, in order to verify his or her identity.

(B) Verification of Identity By Election Committee Member. If an Election Committee member is verifying the Eligible Tribal Member’s identity, the Voter Registration Card must include that Election Committee member’s signature. An Election Committee member shall not sign any Voter Registration Card unless the person has provided a picture identification verifying that they are in fact the person they claim to be. Picture identification means: (1) tribal identification; (2) driver’s license; (3) state issued identification card (4) passport; or (5) military identification.

Section 3-3.40 Registration. In order to be a Qualified Voter, an Eligible Tribal Member must keep a current Voter Registration Card on file with the Election Committee. A change in name, mailing address, or “voting status” requires a new Voter Registration Card. Further if a Voter Registration Card is lost, stolen or destroyed, a new Voter Registration Card will be required.

3-3.40.010 Filing Voter Registration Card in Person. In order to vote, a Tribal member must have a Voter Registration Card on file with the Election Committee by 5:00 p.m. 10 days prior to the Election.

3-3.40.020 Filing Voter Registration Card by Mail. All Eligible Tribal Members shall have the right to file a Voter Registration Card by mail. The Election Committee shall mail out a Voter Registration Card to all Eligible Tribal Members who request one.

Section 3-3.50 Responsibility of Voter. Notwithstanding any provision of this Chapter to the contrary, it is the responsibility of each Eligible Tribal Member to register to vote. Failure of the Election Committee to follow the above procedures shall not be used to allow a vote to be counted if there is no Voter Registration Card on file with the Election Committee.

Section 3-3.60 Storage of Cards. All Voter Registration Cards shall be locked in a fireproof cabinet which will be located in the Election Office or other secure area as determined by the Election Committee.

Section 3-4.10 Tribal Council Candidate Eligibility Determination. It is the Election Committee's duty to determine whether each Tribal Council candidate is eligible, as prescribed by the Tribe's Constitution, to run for or serve on the Tribal Council or any other elected position.

3-4.10.010 Qualified Voter. A candidate must be a Qualified Voter.

3-4.10.020 Felony Conviction. A candidate that has been convicted of a felony will not be permitted to run for, or serve on, the Tribal Council, unless the candidate has been pardoned or had the conviction expunged according to applicable law.

3-4.10.030 Residency. Candidates must be residents of the State of California.

Section 3-4.20 Background Checks. The Election Committee shall cause a background check to be performed on every prospective candidate that is a Qualified Voter. A background check shall be valid for 6 months. All background checks shall remain confidential.

3-4.20.010 Procedure. The Election Committee Chair shall provide the Hopland Reservation Chief of Police with each prospective candidate's name and other relevant information. Each candidate shall provide all needed information for such background check within 3 days from Candidates' Day. Failure to provide all needed information for this background check will result in the candidate's ineligibility. The Chief of Police, or designee, will conduct a background check to determine eligibility under Section 3-4.10. The Chief of Police may consult with the Tribal Attorney as needed. Upon completion of the background check, the Chief of Police shall notify the Chair of the Election Committee whether each candidate is eligible. If the prospective candidate has a felony conviction, the Chief of Police shall disclose only the existence of a felony conviction, not the details of the felony conviction.

3-4.20.020 Pardon or Expungement. If the candidate with a felony conviction claims to have received a pardon or expungement, the burden is on them to prove as much by providing supporting information to the Chief of Police who shall then consult with the Tribal Attorney to jointly review and recommend whether the felony conviction continues to disqualify the candidate. That recommendation will be provided to the Chair of the Election Committee. The Election Committee will then determine whether such candidate is eligible to run for or serve on the Tribal Council.

Section 3-4.30 Nomination of Candidates. Approximately 45 days prior to the Election, the Election Committee shall hold a Candidates' day. Candidates interested in serving on the Tribal Council may nominate themselves in person or be nominated by a Qualified Voter.

Section 3-4.40 Posting of Candidate's Names. Within 10 days of Candidates' Day, the Election Committee Chair shall post all candidate names at the Tribal Office and one other visible location on the Reservation. The Election Committee shall duly update the list if a candidate withdraws or is determined not to be eligible.

Section 3-4.50 Write-In Candidates. No write-in candidates will be accepted and will result in ballot being spoiled.

CHAPTER 3-5 BALLOTS AND BALLOT BOXES

Section 3-5.10 Ballots. The Election Committee shall prepare all ballots.

3-5.10.010 Ballots for Tribal Council Elections. The names of the eligible candidates for Tribal Council shall be in alphabetical order by last name. The ballot for Tribal Council elections shall contain the following instructions:

“YOU MAY VOTE FOR NO MORE THAN _____CANDIDATE(S) FOR TRIBAL COUNCIL. PLACE A MARK IN THE BRACKETS BY THE NAME OF EACH PERSON YOU WISH TO VOTE FOR. YOU MAY NOT GIVE ANY CANDIDATE MORE THAN ONE VOTE. IF YOU NEED ASSISTANCE, THE MEMBERS OF THE ELECTION COMMITTEE WILL HELP YOU.

[]

“JANE DOE”
(NAME OF CANDIDATE)

3-5.10.020 Other Ballots. The Election Committee shall prepare clearly worded ballots, so that Qualified Voters can understand the nature of the issues and choices to be decided in referenda, constitutional amendments, and recall elections .

Section 3-5.20 Ballot Boxes. There shall be 2 ballot boxes: a Ballot Box; and a Spoiled Ballot Box. All Ballot Boxes shall be locked. Before ballots are accepted into a Ballot Box, the Election Committee shall open it to ensure that it is empty. During all Elections, at least 3 Election Committee members shall be in the room with the Ballot Boxes until all ballots are counted and tallied, challenges to spoiled ballots or rejected absentee ballots are heard and decided, and the results announced. At all other times the Ballot Boxes and ballots shall be stored at the Tribal Police offices in a secure location.

CHAPTER 3-6 ELECTION DAY

Section 3-6.10 Time of Election. Tribal Council elections shall be held on the first Saturday in March or as closely as possible, as determined by the Election Committee, unless otherwise determined by the Tribal Council. Dates for all other elections shall be designated by the Election Committee, in consultation with the Tribal Council.

3-6.10.010 Postponement of Election Day. In the event that the Tribal Council determines the need to postpone an Election, the Tribal Council, may postpone the election day for a reasonable amount of time, not to exceed 30 days. The Election Committee shall immediately provide public notice of the postponement and establish a new voting date.

Section 3-6.20 Conducting the Election. At least three Election Committee members shall be present in the room whenever voting is taking place.

Section 3-6.30 Campaigning at the Polls. No person shall campaign within one hundred (100) feet of the voting area. If any dispute about this should arise, the Election Committee members present (a minimum of three) shall immediately decide the issue. If the Election Committee decides that there is campaigning at the polls, the following must occur:

3-6.30.010 Warning – The individual(s) will be given one verbal warning to stop;

3-6.30.020 Removal – If the individual(s) continue, the Election Committee will ask the Tribal Police to remove the individual(s);

3-6.30.030 Fine and removal from ballot – If the campaigning continues, the Election Committee may fine the individual(s) and if they are a candidate he or she may be removed from the ballot;

3-6.30.040 Final decision and Tribal Court Order – The Election Committee's decision shall be final except as provided in Chapters 3-9 and 3-10 of this Title.

Section 3-7.10 Location and Hours. Voting for all Elections shall take place at the Tribal Community Hall or at another location on the Reservation set by Election Committee resolution. Voting shall be conducted from 9:00 a.m. to 7:00 p.m. on the date set for the Election.

Section 3-7.20 Voting Procedure. All voting shall take place using the following procedure.

3-7.20.010 Committee Member Responsibilities. One Election Committee member shall control the verified Voter Registration Cards, the second member shall verify the poll book, and the third member shall hand out the ballots and supervise the Ballot Box. All ballots shall be counted, and accounted for as set forth in Chapter 3-8.

(A) The Election Committee shall first determine whether a Voter Registration Card is on file with the Election Committee. If there is no Voter Registration Card on file, the individual shall not be permitted to vote.

(B) If there is a Voter Registration Card on file, the person shall then sign his or her name in the poll book. If the person is unable to do so, the Election Committee member shall write “unable to sign” by that name and have the person make his/her mark.

(C) An Election Committee member shall verify the person’s identity by visual comparison with a form of photo identification as defined in Section 3-3.30(b)(ii). Once an Election Committee member has verified the person’s identity as a Qualified Voter, the Election Committee member shall note such verification in the poll book by signing his or her initials by the Qualified Voter’s name. The Election Committee shall then issue the Qualified Voter a ballot and an envelope.

3-7.20.020 The Qualified Voter shall then be directed to a designated, private area to mark the ballot. The Qualified Voter may request an Election Committee member’s assistance in marking the ballot. The Qualified Voter shall place the completed ballot in the envelope provided by the Election Committee and deposit it into the locked Ballot Box.

3-7.20.030 If a Qualified Voter accidentally makes a mistake on or destroys his or her ballot, a new ballot shall be issued to the voter, with the correction noted in the poll book; the spoiled ballot shall immediately be marked “void” by an Election Committee member and shall be retained by the Election Committee in the ballot box reserved for spoiled ballots.

3-7.20.040 Secret Ballot. All Elections shall be by secret ballot.

Section 3-7.30 Absentee Voting. Provisions for absentee balloting are required for all Elections. The Election Committee shall mail every Qualified Voter, who has selected “absentee” on their Voter Registration Card, an absentee ballot no less than 20 days prior to the Election. Any Qualified Voter shall be eligible to vote by absentee ballot in accordance with the following procedures:

3-7.30.010 Absentee Ballots and Envelopes. The absentee ballot shall consist of: (1) a paper ballot which meets the requirements of Section 3-5.10 of this Title; (2) an instruction sheet; (3) an inner envelope marked “official ballot;” and (4) a postage paid, self-addressed return envelope.*Absentee Voting Procedure.* The voter shall mark the ballot, and seal it in the inner envelope. The voter shall then place the inner envelope, with no writing on it, inside the return envelope and seal the return envelope. The voter shall print name and address on the return envelope, sign the return envelope and return it to the Election Committee.

3-7.30.030 Retrieving Absentee Ballots from Post Box. While the Election Committee is receiving absentee ballots, the two Election Committee members must have a Tribal Police escort when retrieving Election Committee mail. Also, the post box key shall be kept in the locked Ballot Box and the key to the locked ballot box shall be under the control of the Tribal Chief of Police.

3-7.30.040 Collecting Absentee Ballots on Election Day. Two Election Committee members and at least one Tribal Police officer shall go to the post office to collect the absentee ballots. Upon verification of signatures as required in Section 3-7.40 the Election Committee members shall deposit the absentee ballots into the Ballot Box.

3-7.30.050 Late Receipt of Absentee Ballots. No ballots received after the close of the polls for voting shall be counted. All late ballots shall be collected, remain unopened and marked “Spoiled.”

Section 3-7.40 Absentee Ballot Envelope Inspection and Spoliation. The Election Committee shall compare the signature on the return envelope with the signature on the Voter Registration Card. If the signatures match, the return envelope shall be opened and the inner envelope shall be deposited in the Ballot Box. If the signatures do not match, the absentee ballot shall be spoiled. If a ballot is spoiled because the signatures do not match the return envelope shall not be opened. The spoiled ballot in the return envelope shall be deposited in the Spoiled Ballot Box.

Section 3-8.10 Count and Tally of Ballots. Immediately after the polls are closed, the Election Committee shall open the Ballot Box and shall count and tally the votes. One member of the Election Committee shall open and read the ballots. The Election Committee Chair and 2 Election Committee members designated by the Election Committee Chair shall each concurrently record the tally on tally sheets while the other Election Committee members observe the count and tally. If the tallies match, the count and tally are completed. If the tallies as recorded do not match, the procedure shall be repeated until the counts and tallies are reconciled.

Section 3-8.20 The Tally Sheet. Before any Election the Election Committee must approve a tally sheet to be used to count votes. The tally sheet must set forth: (1) the number of ballots distributed; (2) the total number of votes cast; (3) the number of votes cast at the voting station; (4) the number of votes cast by absentee ballot (4) the number of spoiled ballots (as defined in Sections 3-7.40 and 3-8.30); (5) the number of votes cast for each candidate, or, in the case of a Constitutional Amendment, referendum, or recall election, the number in favor of and opposed to the referendum or recall (6) the statement “I, the undersigned member of the Election Committee, hereby certify that the above count and tally is true and correct, executed this ___ day of _____, 2_____;” and (7) signature lines for each Election Committee member.

Section 3-8.30 Spoiled Ballot: Definition. The members of the Election Committee may determine that a ballot is spoiled only if: (1) the ballot was late; (2) the ballot included a write-in response; (3) it is an absentee ballot that was inspected and determined to be spoiled according to Section 3-7.40; or (4) a majority of the Election Committee find that they are unable to clearly determine the voter’s intent from the marks on the ballot, because:

3-8.30.010 The voter failed to mark an “X” on the ballot or sufficiently close to the appropriate areas designated for the mark;

3-8.30.020 The voter marked too many candidates;

3-8.30.030 In the case of a Constitutional Amendment, referendum or recall, the voter marked both approval and disapproval of the issue; or

3-8.30.040 The voter informed a member of the Election Committee at the polling station that the voter mistakenly marked or damaged the ballot. However, solely in this situation the voter will be issued a new ballot to replace the spoiled ballot.

Section 3-8.40 Announcement of Election Results and Certification. Upon conclusion of the count and tally and after the tally sheets are signed, the Election Committee will announce the winners, or, in the case of a referendum, recall, or Constitutional amendment, whether the measure passed or failed or the official was recalled. The winner or winners shall be determined on the number of votes received, and ranked in order of votes received. The Election Committee shall then immediately certify the Election by each Election Committee member signing his/her name at the bottom of each tally sheet. Winning candidates shall take office in accordance with Chapter 3-11.

3-8.40.010 *Tie Vote.* Constitutional Amendment, referendum, or recall elections that result in a tie vote shall fail. In the event of a tie for the last or only position for Tribal Council, the winner shall be decided by a run-off election to be held within 30 days of the original election.

3-8.40.020 *Delivery of Results to Tribal Council.* In order to allow time for recounts and challenges pursuant to Chapters 3-9 and 3-10 the results shall be delivered to the Chairperson of the Tribal Council or, in the absence of the Chairperson, the Vice-Chairperson of the Tribal Council on the sixth (6th) day following the announcement and certification of the Election results.

Section 3-9.10 Candidates Right to Inspection and Challenge. After the results of an Election have been certified and announced, any Interested Person shall have the right to:

3-9.10.010 Within 3 days of the certification of the Election results, inspect the poll book, Voter Registration Cards, ballots, outer envelopes used in absentee voting, and tally sheets for conformity with the procedures set forth in this Title;

3-9.10.020 Within 3 days of the certification of the Election results, challenge the Election Committee's determination that a ballot is spoiled or the Election Committee's rejection of an absentee ballot, pursuant to Section 3-9.20;

3-9.10.030 Within 3 days of the certification of the Election results, request a recount pursuant to Section 3-9.30;

3-9.10.040 Within 3 days of the certification of the Election results, file an appeal of any Election Committee decision that had a material effect on the outcome of the Election pursuant to Section 3-10.10;

3-9.10.050 Within 10 days of the certification of the Election results, file a petition with the Tribal Court pursuant to Chapter 3-10.

Section 3-9.20 Challenges to Spoiled Ballots and Absentee Ballots. Any Interested Person may challenge the Election Committee's determination that a ballot is spoiled. The Election Committee will conduct a review of the challenged ballot within 2 days of the request. If a challenge to a spoiled ballot is granted, the spoiled ballot shall be considered a properly completed ballot and it shall be added to the election count and tally. Ballots shall be retained by the Election Committee for a period of two years. If the Interested Person is unhappy with any decision made by the Election Committee during the challenge to spoiled ballots and rejected absentee ballots, then the Interested Person may challenge the Election Committee's decisions pursuant to Chapter 3-10.

Section 3-9.30 Recounts. Where the outcome to an Election is determined by 5 or fewer votes, and the Interested Person can present reasonable evidence of an apparent error or omission that could have had a material effect on the outcome of the Election, a recount may be requested. Such a request shall be made in writing to the Election Committee. A recount will be granted and conducted within 2 days of the request.

Section 3-10.10 Challenge to Election Committee Decisions in Tribal Court. Any Interested Person may seek review of any of the Election Committee's decisions or actions relating to an Election based on the belief that:

3-10.10.010 An Election Committee member, through an act or omission, violated this Title or abused their discretion in such a manner that it had a material influence on the outcome of the Election; or

3-10.10.020 An Election Committee member, through an act or omission, violated the provisions of this Title in such a manner that the member should be sanctioned.

Section 3-10.20 Tribal Court Jurisdiction and Standard of Review. The Tribal Court is granted jurisdiction to review the decisions of the Election Committee made during any Election and to issue such orders as the Court deems necessary to remedy any violations of this Chapter. The Tribal Court is hereby granted jurisdiction to order:

3-10.20.010 Recounts;

3-10.20.020 New elections;

3-10.20.030 Monetary or other sanctions that the Court deems necessary to discourage members of the Election Committee and tribal members in general from violating the provisions of this Chapter;

3-10.20.040 Such other actions or sanctions as the Court deems necessary to ensure the integrity of the election process; and

3-10.20.050 While the Tribal Council retains the right to appoint and remove, committee members, the Tribal Court judge may remove any or all Election Committee members for cause.

3-10.20.060 The standard of review to be applied by the Tribal Court in determining whether the actions of the Elections Committee violate this law is clear and convincing evidence.

Section 3-10.30 Petition to Challenge Election Committee Decision. Any Interested Person seeking a Tribal Court order shall file with the Court, and personally serve the Secretary of the Tribal Council and the Election Committee, the following documents within 10 days of the certification of the Election being challenged:

3-10.30.010 A Petition explaining in detail the basis for the challenge and the remedy requested;

3-10.30.020 All documentary evidence in support of the Petition;

3-10.30.030 A list of any witness that the Interested Person intends to call in support of the Petition and a summary of the matter about which the witness is to testify; and

3-10.30.040 Within 24 hours of being served with a Petition, the Election Committee shall deposit with the Court the poll book, all ballots still in the ballot boxes, all tallies of votes, the certification of the results of the Election and any other evidence the Election Committee relied upon in making its decision that was the basis for the filing of the Petition to the Tribal Court.

Section 3-10.40 Hearing on Petition to Challenge Election. Upon receipt of a Petition to Challenge Election, and the supporting documents, the Tribal Court shall set a hearing date not less than 5 days after the filing of the Petition, and serve notice on the Petitioner, the Election Committee and the Secretary of the Tribal Council. Those accused of wrongful acts may respond to the Petition by filing: a written response to the Petition; documentary evidence, and providing witness testimony at the hearing. At the hearing, the Petitioner shall present any and all evidence supporting the Petition. Once the arguments, evidence, and testimony have been presented, the Court shall rule on the Petition within two days of the hearing and adopt findings of fact and conclusions of law in support of the Court's decision.

Section 3-10.50 New Election by Order of Tribal Court. If the Tribal Court orders that a new Election be held, the new Election shall be conducted in accordance with the procedure set forth in this Title except that no new candidates may be nominated. Sufficient time shall be granted for notice of the new Election to be given to tribal members and for absentee voting. However, new Elections shall be held no fewer than 45 days and no more than 60 days from the date of the Court ordering a new Election.

CHAPTER 3-11 TAKING OFFICE.

Section 3-11.10 Beginning of Terms. After the 10 day period following the certification of the Election, the certified winners shall be sworn in.

Section 3-11.20 Election Challenge. If a challenge has been filed in Tribal Court, no one shall be sworn in until the challenge has been decided.

Section 3-11.30 Oaths of Office. At the next regular monthly Tribal Council meeting the newly elected Tribal Council members(s) shall gather for the administration of the oath of office by the Election Committee Chair or designee. The oath of office shall be as follows:

“I, _____ DO SOLEMNLY SWEAR THAT I WILL UPHOLD THE CONSTITUTION AND LAWS OF THE HOPLAND BAND OF POMO INDIANS, THAT I WILL SERVE THE TRIBE TO THE BEST OF MY ABILITY, THAT I WILL WORK FOR THE ENTIRE MEMBERSHIP OF THE TRIBE, THAT I WILL RESPONSIBLY REPRESENT THE TRIBE, THAT I WILL CARRY OUT THE DIRECTIONS OF THE TRIBAL COUNCIL, THAT I WILL DECLARE WHEN A CONFLICT OF INTEREST COULD AFFECT THE PERFORMANCE OF MY DUTIES ON BEHALF OF THE TRIBE, AND THAT I WILL PERFORM ALL DUTIES REQUIRED OF ME BY THE CONSTITUTION AND LAWS OF THE TRIBE.”

Immediately upon the taking of the oath of office, the Tribal Council members shall begin their terms of office.

Section 3-12.10 Vacancies.

3-12.10.010 Any office which has been vacated, whether it be by removal, recall or forfeiture proceedings pursuant to Article VI of the Tribe's Constitution, shall be filled pursuant to Article VII of the Tribe's Constitution.

3-12.10.020 In the event that an office is vacated during the third or fourth year of a term and the candidate who received the highest number of votes in the last Tribal Council election but did not win a seat on the Tribal Council either is no longer eligible to serve on the Tribal Council or no longer wishes to fill the office, the Council will then appoint the candidate who received the next highest number of votes in the last Tribal Council election but did not win a seat and who is eligible to serve on the Tribal Council and agrees to fill the office. Should this person also no longer be eligible to serve on the Tribal Council or no longer wishes to fill the office, then the Tribal Council shall appoint the next highest vote getter, and so on. In the event that all of the candidates who ran in the last Tribal Council election and did not win seats are no longer eligible to serve on the Tribal Council or do not wish to fill the office, the Tribal Council shall appoint any qualified voter it chooses who is eligible to serve on the Tribal Council and wishes to fill the office. A special election called to fill one or more Tribal Council seats shall count as a Tribal Council election for the purpose of determining what election was the last Tribal Council election pursuant to Article VII Section 1 (b) of the Constitution. If the candidate does not have a valid background check pursuant to Section 3-4.20, the candidate will have to pay to have a new background check performed.

3-12.10.030 If the office vacated is that of an officer of the Tribal Council, then the Tribal Council shall appoint at its next meeting another Council Member to fill that officer position until the next election of officers.

Section 3-12.20 Removal, Recall, Forfeiture and Referendum

3-12.20.010 Given the time, effort, and cost involved with removal, recall, and certain forfeitures of office, no person removed, recalled, or who has forfeited his or her office pursuant to Article VI, section 3(b) or (c) of the Tribe's Constitution shall be permitted to serve in that same capacity for a period of ten (10) years from the date of removal, recall, or forfeiture.

3-12.20.020 Only Qualified Voters may sponsor and submit petitions for removal, recall and referendum. A petition must specify its purpose. While a petition may consist of as many pages as necessary to accommodate the signatures of all petitioners, the purpose of the petition must be set forth verbatim at the top of each page containing signatures. Only Qualified Voters may sign the petition(s). A Qualified Voter must print his or her name, affix the date, and put his or her current address next to his or her signature. A separate petition for recall must be submitted for each official the petitioners wish to recall.

3-12.20.030 The sponsor of a petition shall submit the petition to the Secretary of the Tribal Council and the Chair of the Election Committee once the sponsor believes a sufficient number of signatures have been gathered. The Tribal Council Secretary and Election Committee Chair shall each independently verify whether the petition (i) contains the number of signatures of Qualified Voters required by the Tribe's Constitution and (ii) conforms to the requirements of this Ordinance. Such verification must be performed within 5 days of submission. If both persons so verify, an election shall be called and conducted within 30 days to vote on the petition(s) unless otherwise provided in the Tribe's Constitution. If either the Tribal Council Secretary or the Election Committee Chair is the subject of the petition, the Tribal Council shall appoint one or more other persons from the Tribal Council to verify the petition(s).

3-12.20.040 The conduct of a recall or referendum election shall be as set forth herein. All petitions submitted, with addresses redacted, may be inspected and copied by any Qualified Voter.

Section 3-13.10 Election of Officers. The officers of the Tribal Council shall consist of a Chairperson, a Vice-Chairperson, Secretary, and Treasurer. The officers of the Tribal Council shall be elected by a majority vote of the members of the Tribal Council. At the Tribal Council meeting to elect new officers, if the Chairperson of the Tribal Council's term has expired, the Vice-Chairperson of the Tribal Council shall chair the meeting until a new Chairperson is elected. The Tribal Council meeting to elect new officers shall be held on the same day and at the same meeting where the swearing in of Tribal Council members took place. In years where no Tribal Council election is held, the Tribal Council shall meet on the anniversary of the swearing in to elect new officers.

Section 3-13.20 Terms of Officers. The officers of the Tribal Council elected pursuant to this Chapter shall hold two year terms and elections shall be held every other year. All Tribal Council member terms shall be for four years.

Section 3-14.10 Repeal of Previous Ordinance. This Ordinance repeals and replaces all prior Election Ordinances and any other Ordinance that conflicts with provisions of this Ordinance except for those Ordinances which require the approval of the Tribal Membership.

Section 3-14.20 Severability. If a court of competent jurisdiction finds any provision of this Ordinance to be invalid or illegal under applicable federal or tribal law, such provision shall be severed from this Ordinance. The remainder of this Ordinance shall remain in full force and effect.

Section 3-14.30 Amending the Election Ordinance. This Title may only be amended by the Tribal Council in open session at a properly noticed Tribal Council meeting. It cannot be amended by a poll vote of the Tribal Council. Any future changes to this Title will not affect any Election which had its Candidates' Day before the changes were formally approved by the Tribal Council.

History: Ordinance No. 11-12-06; Ordinance No. 12-07-30; Ordinance No. 13-04-27; Ordinance No. 14-01-09.

TITLE 4 REVENUE AND TAXATION

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CHAPTER 4-1

TRIBAL REVENUE ALLOCATION PLAN

Section 4-1.10 Definitions

(a) “*IGRA*” means the Indian Gaming Regulatory Act of 1988 codified at 25 U.S.C. §§ 2701 et seq. as amended.

(b) “*IGRA trust*” means the trust that the Tribe will establish under IGRA to receive and invest per capita payments for its members who are minors pending distribution of the trust assets to those members when eligible.

(c) “*Legal incompetent*” means an individual who is eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a *court of competent jurisdiction*.

(d) “*Member or Tribal member*” means an individual who meets the requirements established by applicable tribal law for enrollment in the Tribe, has been enrolled with the Tribe for the entire quarter in which a per capita payment is made, and is living on the day a per capita payment is distributed.

(e) “*Minor*” means an individual who is a Tribal member but has not reached the age of 18 years. A minor emancipated by a court of competent jurisdiction shall be treated as an adult member the moment he or she provides to the Tribal Council a certified copy of the court order of emancipation. Otherwise, such person shall be treated as a minor until he or she reaches the age of 18 years.

(f) “*Net revenues*” means gross revenues of a Tribal gaming activity less (i) amounts paid out as, or paid for, prizes, (ii) total operating expenses, and (iii) required payments on any capital advance or loan that are then transferred from a gaming activity account to a Tribal government account.

(g) “*Per capita payment*” means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity. This definition does not apply to payments which have been set aside by the Tribe for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs. This definition also does not apply to payments for services rendered.

(h) “*Quarter*” means the following three-month periods in any calendar year: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

Section 4-1.20 Eligibility

4-1.10.010 Every adult Tribal member of the Hopland Band of Pomo Indians is eligible to receive a per capita payment so long as he or she (i) has been enrolled with the Tribe for the entire quarter prior to the quarter in which a per capita payment is made and (ii) is living on the day a per capita payment is distributed. All per capita payments less applicable taxes shall be made in equal amounts to each adult Tribal member eligible to receive a per capita payment pursuant to this Ordinance unless the Tribal member requests in writing that his or her per capita payment be reduced or withheld.

4-1.10.020 Every minor Tribal member of the Hopland Band of Pomo Indians is eligible to receive a lump sum per capita payment of Thirty Five Thousand Dollars (\$35,000.00) when he or she (i) reaches the age of 18 years and provides proof to the Tribal Council that he or she has received a high school diploma or GED or (ii) reaches the age of 25 years. Depending on the financial circumstances of the Tribe, the amount of the lump sum per capita payment may be increased by the General Council subject to approval by the Secretary of the Interior.

Section 4-1.30 Per Capita Payments

4-1.10.030 The allocation of net revenues shall be as follows:

(A)	Per capita	30%
(B)	Tribal government	43%
(C)	General welfare	10%
(D)	Economic development	15%
(E)	Charitable donations	1%
(F)	Local government assistance	1%
		=====
		100%

4-1.10.040 As to Section 1-30.010(A), the Tribal Council may, in its discretion subject to review by the General Council, choose not to distribute any per capita or choose to distribute less than the percentage set forth in Section 1-30.010(A) at any given time depending on the financial circumstances of the Tribe. The Tribal Council may make up those undistributed or lesser distributed per capita payments later in the year so long as per capita payments in total do not exceed the per capita percentage set forth in Section 1-30.010(A) for any given year. As to subsections Sections 1-30.010(B) through (F), the Tribal Council may, in its sole discretion, allocate the net revenues between the different uses as needed and necessary. The funding of Tribal government operations and programs shall be first priority and no allocation will be made to any category other than Tribal government if the Tribe lacks sufficient funds to fund other categories.

4-1.10.050 The per capita payment will be made by check and mailed directly to each competent adult Tribal member whose current address is known to the Tribe. The burden is on the Tribal member to keep his or her address current with the Tribe. An adult Tribal member may pick-up his or her per capita payment in person from the Tribal Council pursuant to procedures to be determined by the Tribal Council. Failure to receive a per capita payment will create no liability on the part of the Tribe or any agent of the Tribe.

4-1.10.060 Per capita payments to legal incompetents will be made by check to his or her legal guardian or conservator for his or her benefit but only if and after a certified copy of the letters of guardianship or conservatorship issued by a court of competent jurisdiction have been provided to the Tribal Council and are currently in effect.

4-1.10.070 Distribution of funds from settlements, lawsuit awards, and various sources other than net revenues will not be subject to this Ordinance and will be determined by the Tribal Council on a case-by-case basis.

4-1.10.080 The Tribal Council may withhold a per capita payment to a Tribal member if the Tribal Court determines after notice and an opportunity to be heard that the Tribal member (i) owes money to the Tribe or (ii) owes money to a third party pursuant to a valid child support order.

Section 4-1.40 IGRA Trust

4-1.10.090 The Tribal Council shall create an IGRA trust for minors that satisfies the safe harbor provisions of Internal Revenue Service Rev. Proc. 2003-14 or any supplement or amendment thereto. The Tribal Council, or other entity as designated by the Tribal Council, shall act as trustee for the IGRA trust.

4-1.10.100 Each minor Tribal member shall be a beneficiary of the IGRA trust and shall be eligible to receive a per capita payment of Thirty Five Thousand Dollars (\$35,000.00) when he or she (i) reaches the age of 18 years and provides proof to the Tribal Council that he or she has received a high school diploma or GED or (ii) reaches the age of 25 years. If a minor Tribal member dies before payment can be made from the IGRA trust, his or her lump sum per capita payment shall pass as provided by applicable probate law.

4-1.10.110 The Tribal Council may establish procedures to permit a minor Tribal member through his parent(s), foster parent(s), Indian custodian(s) or legal guardian(s) to receive all or a portion of his or her per capita payment early as necessary for the health, education, or welfare of the minor Tribal member. These procedures must include criteria for the withdrawal of the funds, acceptable proof and/or receipts for accountability of the expenditure of the funds, the circumstances for denial of the withdrawal, and a dispute resolution process.

Section 4-1.50 Taxation. Pursuant to applicable Federal law, the per capita payments are subject to Federal taxation. The Tribal Council shall ensure that members receiving per capita payments are informed that they are responsible for payment of applicable taxes. The Tribe shall deduct and withhold from per capita payments the amounts required for taxes by applicable Federal law.

Section 4-1.60 Dispute Resolution. If a Tribal member disputes the interpretation, implementation or enforcement of this Ordinance, such dispute shall be submitted to the Tribal Council for a hearing. At the hearing, the Tribal member shall be given the opportunity to be heard and to present evidence and argument. If the Tribal member is not satisfied with the determination of the Tribal Council, the Tribal member may file a lawsuit in the Tribal Court pursuant to the Tribes administrative procedures act. Except as to Tribal members and as provided herein, nothing in this Ordinance is intended to waive the sovereign immunity of the Hopland Band of Pomo Indians.

Section 4-1.70 General Provisions

4-1.10.120 Repealer. This Ordinance supersedes, replaces, and repeals Ordinance 15 and all conflicting provisions of any and all prior laws, codes, ordinances, rules, and regulations of the Hopland Band of Pomo Indians. If the provisions of this Ordinance conflict with the provisions of any other law, code, ordinance, rule or regulation, the provisions of this Ordinance will control.

4-1.10.130 Severability. If any provision of this Ordinance, or its application to any person or entity, is held to be invalid by a court of competent jurisdiction or the Secretary of the Interior, the remainder shall not be affected and shall remain in full force and effect.

4-1.10.140 Amendment. The Tribal Council has the right to amend or repeal this Ordinance at any time and such amendment or repeal will not represent a taking of any vested property right; provided, however, no such amendment or repeal will be effective until approved by the Secretary of the Interior in accordance with applicable law.

History: Ordinance No. 08-0518.

CHAPTER 4-2 COMPREHENSIVE TAXATION ORDINANCE

Section 4-2.10 Definitions In construing the provisions of this Ordinance, the words and phrases listed below have the following meanings:

- (a) “*Casino*” means the Sho-Ka-Wah Casino and/or any other gaming enterprise.
- (b) “*Commercial business*” or “*business*” means any person engaged in an activity with the object or result of gain, benefit or advantage for the person so engaged, either direct or indirect, and, where appropriate to the context in which the term is used, the activity itself. “Commercial business” or “business” does not include a utility.
- (c) “*Gross receipts*” means total gross revenues of a business regardless of source.
- (d) “*Lessee*” means and includes the person or persons who have obtained directly from an owner any possessory interests in any lands held in trust by the United States for the benefit of any Indian or Tribal owner or owners, or held by any Indian or Tribal owner in fee subject to a restriction upon alienation imposed by the United States, and the assignees and successors in interests of such person or persons. This term does not apply to a sublessee where the lessee retains an interest in the leasehold estate.
- (e) “*Market value*” means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.
- (f) “*Person*” includes, but is not limited to, any individual, firm, partnership, joint venture, association, club, organization, company, corporation, contractor, supplier, vendor, vendee, operator, owner, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee of bankruptcy, syndicate, the United States, the State of California, any county, city, municipality, district, or other political subdivision of the State of California, another state, or its political subdivisions, any tribe (other than the Tribe) or its political subdivisions, or any other group or combination acting as a unit.
- (g) “*Possessory interest*” means any non-exempt, leasehold interest in trust or restricted-fee-status real property on the Reservation, including the value of any property or improvements thereon.
- (h) “*Purchase*” means and includes the following:
 - (1) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of property for consideration. “Transfer of possession” includes only transactions found by the Tax Commission to be in lieu of a transfer of title, exchange, or barter.
 - (2) A transaction whereby the possession of the property is transferred but the seller retains the title as security for the payment of the price.
 - (3) A transfer for consideration of property that has been produced, fabricated, or printed to the special order of the Casino, or of any publication.
 - (4) Any lease of personal property, in any manner or by any means whatsoever,

for consideration.

(i) “*Reservation*” means and includes the following: the Hopland Indian Reservation; any land held by the United States of America in trust for the beneficial interest of the Tribe; any Tribal land held in restricted status; any land subject to the jurisdiction of the Tribe; and any land within the exterior boundaries of the Hopland Indian Reservation regardless of whether the land is owned in fee, is allotted, distributed, or Tribal land, or is land otherwise held.

(j) “*Sales*” and/or “*sold*” mean the following:

(1) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of property for consideration. “Transfer of possession” includes only transactions found by the Tax Commission to be in lieu of a transfer of title, exchange, or barter.

(2) The producing, fabricating, processing, printing, or imprinting of property for consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(3) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(4) A transfer for consideration of the title or possession of property that has been produced, fabricated, or printed to the special order of the Casino, or of any publication.

(5) Any lease of personal property in any manner or by any means whatsoever for consideration.

(k) “*State*” means the State of California or another state of the union with the power to tax a transaction or property subject to tax under this Ordinance.

(l) “*Tax Commission*” or “*Tribal Tax Commission*” means the Tribal taxing authority established under this Ordinance or the Tribal Council until such authority is established.

(m) “*Transient lodging establishment*” means an establishment within the Reservation, containing guest rooms or overnight lodging units, hereinafter referred to as “transient lodging units,” with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. By way of illustration and not limitation, transient lodging establishment includes hotels, motels, inns, boardinghouses, tourist homes, campgrounds, resorts, R.V. parks, mobile homes or house trailers. Occupancy of real property for thirty (30) consecutive days or more with the intent to make the occupancy a permanent place of residence constitutes a rental or lease of real property and is excluded from this definition.

(n) “*Tribal Council*” means the Tribal Council of the Tribe.

(o) “*Tribal Court*” means the court of the Tribe.

(p) “*Tribe*” means the Hopland Band of Pomo Indians.

(q) “*Utility*” means any privately or publicly held entity engaged in supplying, transmitting or distributing electricity, gas, water, telephone, cable television, telegraph or other similar

services.

(r) “*Utility services*” means the following:

- (1) The distribution of water.
- (2) The collection or processing of sewerage system products.
- (3) The pick-up, transfer, storage, treatment, or disposal of waste. (The term “waste” means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use, but does not include material collected primarily for recycling or salvage.)
- (4) The transmission of telephone, telegraph, or any other electronic signals used for communication.
- (5) The distribution of television signals via a community television antenna or cable system.
- (6) The distribution of electricity, natural, artificial, or mixed gas, propane, liquefied petroleum gas, heating oil, or other energy sources; but the term shall not include the provision nor distribution of firewood; nor shall it include the provision or distribution of gasoline or diesel fuels clearly intended for use by the final consumer in motor vehicles or boats.

(s) “*Valuable improvement*” means and includes any building, barn, home, mobile home, storage tank or facility, fence, or other structure of a permanent or semi-permanent nature affixed to or placed upon a leasehold that is for the benefit or subject to the use of the lessee and the lessee’s assigns, sublessees and those holding under or through the lessee.

Section 4-2.20 Construction

4-2.20.010 Wherever conflict occurs between the provisions of this Chapter and any other code, law, or ordinance of the Tribe, the provisions of this Chapter will apply.

4-2.20.020 Nothing in this Ordinance shall be construed as imposing a tax upon the Tribe, including Tribal governmental agencies and departments, or upon any person when imposition of such tax upon that person would be in violation of the Constitution of the Hopland Band of Pomo Indians or the Constitution of the United States of America.

Section 4-2.30 Use of Funds All monies received in accordance with this Ordinance will be deposited in the Tribe’s General Fund to be budgeted by the Tribal Council and may only be expended to defray the costs of providing governmental services. No tax revenue can be used for per capita payments to members.

Section 4-2.40 Tax Exemption, No Dual Taxation

No tax established under this Ordinance will apply in the event that assessment of the tax would, in the particular circumstance, result in double taxation of the taxpayer by a State and the Tribe with respect to the same transaction or property and the same type of taxation. The intent of the

Tribe is to capture potential tax revenue that would ordinarily go to a State but for the transaction or property being located on the Reservation. The following requirements must be met for this exemption to apply:

(A) The taxpayer must establish to the satisfaction of the Tax Commission that the taxpayer has done everything legally required under California law (or other law as applicable) to exempt the transaction or property from State taxation and, notwithstanding, the State taxing authority with jurisdiction has assessed and demands payment of the State tax with respect to the transaction or property.

(B) If the taxpayer makes such a showing within reasonable time limits established by Tax Commission regulations and in the event such regulations are not in place, within six (6) months from the date of the Tribal assessment, the Tax Commission, at its option, shall –

- (1) waive the Tribal tax;
- (2) refund the tax if already collected; or
- (3) enter into an agreement with the taxpayer under which the taxpayer assigns its rights to the Tax Commission in order that the Tax Commission may legally challenge the State's authority or jurisdiction to impose its tax with respect to the transaction or property.

(C) In the event the Tax Commission opts to challenge the State's authority or jurisdiction, the Tax Commission shall enter into a written agreement to indemnify and hold the taxpayer harmless from costs associated with opposing the applicable State tax.

The Tribe and its governmental agencies and departments are exempt from taxation under this Ordinance. This exemption does not apply with respect to Tribal business enterprises or to Tribal authorities or entities that are distinct from the governing bodies of the Tribe (i.e., the Tribal Council and the agencies and departments under the direct authority of the Tribal Council).

Section 4-2.50 Tax Commission

4-2.50.010 A Tax Commission of the Tribe is hereby established to administer this Ordinance and to keep all records or accounts concerning Tribal taxation. The Tax Commission is hereby authorized, consistent with the terms hereunder, to take all necessary actions to implement and enforce the provisions of this Ordinance.

4-2.50.020 The Tribal Council shall from time to time designate three (3) individual members of the Tribe, which may include members of the Tribal Council, to comprise the Tax Commission. The Tax Commission shall report all activities and collections to the Tribal Council at least quarterly.

4-2.50.030 A taxpayer may make any inquiries concerning Tribal taxation to the Tax Commission or to entities or persons designated by the Tax Commission.

4-2.50.040 The Tax Commission is a branch of the Tribal government for the purpose of administering and enforcing this Ordinance, and it shall exercise all of the powers of the Tribal government necessary or convenient to the administration and enforcement of this Ordinance. The powers of the Tax Commission include, but are not limited to, the following:

(A) The Tax Commission may appoint one or more officials to act as tax officials and to specify that said officials have the right to assess and collect taxes according to this Ordinance and the regulations adopted by the Tax Commission in accordance with the Tribe's Constitution and this Ordinance.

(B) The Tax Commission may adopt regulations governing taxpayer reporting responsibilities, procedures for enforcing compliance with reporting responsibilities, procedures for assessing tax liability, procedures for collecting taxes that are past due but unpaid, and procedures for remitting collected taxes to the Tribe. Adopted regulations will be consistent with the provisions of this Ordinance and will, at a minimum, include and provide for the following:

- (1) Provide the taxpayer with prior notice of assessed tax liability and an opportunity for a hearing before a hearing officer or panel established by the Tax Commission, and provide that a decision of the hearing officer or panel may be appealed to the Tribal Court.
- (2) Protect the taxpayer from paying both a State and Tribal tax for the same transaction or property as set forth herein.
- (3) Provide that all taxes collected by the Tax Commission shall be deposited in a separate interest bearing account to the credit of the Tribe. The taxes collected shall subsequently be deposited in the Tribe's General Fund after the following: the time to appeal any decisions of the Tax Commission with respect to taxation of the transaction or property has expired, or final decisions of the Tax Commission have been rendered after appeal, or any challenge to a competing State tax is finally resolved.

(C) For taxes past due but unpaid:

- (1) The Tax Commission may set off the uncollected taxes against any debts owed by the Casino or the Tribe or any branch of the Tribal government to the taxpayer. To this end for the purpose of collecting such unpaid taxes only and only to the extent necessary for that purpose, the Casino and the Tribe shall assign to the Tax Commission any debts that they owe or may incur to any taxpayer.
- (2) The Tax Commission may set off the amount of taxes past due and unpaid under this Ordinance against any monies the Tax Commission or the Tribe may otherwise owe the taxpayer, including per capita payments.

- (3) The Tax Commission may establish a schedule for the payment of taxes past due and unpaid under this Ordinance.
- (4) The Tax Commission by regulation may set interest payment requirements and penalties to be imposed with respect to past due and unpaid taxes. In no case shall the interest rate exceed one and one-half percent (1.5%) per month nor shall any penalty exceed ten percent (10%) of the past due and unpaid tax amount, except, in the case of fraud, in which a penalty may be up to and including twenty-five percent (25%).
- (D) The Tax Commission shall have the authority to levy tax liens pursuant to this Ordinance.
- (E) The Tax Commission may enter into agreements with taxpayers that vary from the strict requirements of this Ordinance regarding the collection of taxes so long as the general purpose and intent of this Ordinance is served.
- (F) The Tax Commission may take any other action necessary to administer or enforce this Ordinance, including, with Tribal Council approval, filing an action in its own name or the Tribe's name in any court of competent jurisdiction to collect taxes that are past due but unpaid; provided that this power does not expressly or impliedly waive the Tribe's or the Tax Commission's sovereign immunity from suit or subject the Tax Commission or the Tribe to any cross-claim, counter-claim, third party claim or other counter-suit.
- (G) In exercising its powers hereunder, the Tax Commission shall not act in any manner inconsistent with the provisions of this Ordinance or with the direction of the Tribal Council.

4-2.50.050 The Tax Commission may make refund adjustments, payments of interest or payment for any purpose that this Ordinance may require. The Tax Commission shall refund any taxes paid on which protests have been allowed, with interest as provided for by regulation or otherwise prescribed by the Tax Commission, within thirty (30) days of the date of the final decision.

Section 4-2.60 Notice

Whenever notice is required under this Ordinance, unless otherwise provided in this Ordinance, it shall be deemed given when personally delivered or deposited in the U.S. Mail with proper postage affixed thereto and addressed to the party to whom the notice is given as provided in an official statement of the party's address on file with the Tribe or the Tax Commission. A taxpayer shall file its official statement of address with the Tax Commission.

Section 4-2.70 Tax Lien

4-2.70.010 The Tax Commission is authorized and required to make the inquiries, determinations and assessments of all taxes (including any interest, additional amounts, additions to the tax and assessable penalties) imposed by the Tribe. The assessment shall be made by recording the liability of the taxpayer in the office of the Tax Commission in accordance with regulations or practices as adopted by the Tax Commission. Upon request of the taxpayer, the Tax Commission shall furnish the taxpayer with a copy of the record of the assessment.

4-2.70.020 Unless otherwise provided in this Ordinance, the Tax Commission or its delegate shall, as soon as practicable, and within 60 days after the making of an assessment of a tax pursuant to this Ordinance, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the usual on-Reservation place of business of the person or shall be sent by mail to such person's last known address.

4-2.70.030 If any person liable to pay any Tribal tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the Tribe upon all property or rights to property, whether real or personal, belonging to such person and located on the Reservation or in the possession of the Tribe, the Tribe's agencies or departments, the Tribe's business entities, or the Tribe's housing authority.

4-2.70.040 The lien imposed under this Section shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

4-2.70.050 The lien imposed hereunder shall not be valid as against any other person (other than the taxpayer) claiming an interest in said property until notice of the lien has been filed by the Tax Commission or its delegate with the appropriate government agency.

4-2.70.060 Even though notice of a lien has been filed, such lien shall be secondary to the following:

(A) With respect to claims by any person performing labor or providing supplies or services in connection with a construction project undertaken by the Tribe or any of its departments or agencies, businesses, or its housing authority where that person perfects that claim under any state or federal mechanic's lien or other law prior to the filing of the tax lien.

(B) With respect to any payment necessary in the opinion of the Tribe or any of its departments or agencies, businesses, or its housing authority to complete a project undertaken by the Tribe or its agencies or departments (other than a payment to the taxpayer).

4-2.70.070 The notice required hereunder shall be filed with the appropriate government agency and the Tribal office in possession of the property, or in the case of tangible personal property located on the Reservation, by posting a copy of the notice on the property and by mailing a copy of the lien to the taxpayer at his or her last known address or by leaving a copy of the lien at his or her usual on-Reservation place of business.

4-2.70.080 The form and content of the notice required hereunder shall be prescribed by the Tax Commission or its delegate. The lien notice will, at a minimum, identify the taxpayer, the amount of the lien, the date of the assessment, the name and the address and telephone number of the tribal official responsible for assessing and collecting the tax.

4-2.70.090 Any person or entity in possession of property subject to a lien issued hereunder and enforceable hereunder shall withhold from the taxpayer and all other persons all or a sufficient amount of the property to satisfy the lien. Upon written demand of the Tax Commission or its delegate, the party in possession of the property shall deliver possession thereof to the Tribe. The written demand shall specify a description of the property (and in the case of money, the amount) and the Tribal agency or department on to which the property must be delivered. The person in possession shall notify the taxpayer that the property was delivered to the Tribe. Any such person delivering property to the Tribe as required hereunder shall not have any liability whatsoever, as a matter of Tribal law, to the taxpayer or any other person for complying with the obligations imposed hereunder.

4-2.70.100 Subject to such regulations as the Tax Commission may prescribe, the Tax Commission or its delegate may issue a certificate of total or partial release of any lien imposed with respect to any tax in the event that one or both of the following occur:

- (A) The Tax Commission or its delegate find that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable.
- (B) There is furnished to, and accepted by, the Tax Commission or its delegate a bond that is conditioned upon the payment assessed.

4-2.70.110 Subject to such regulations as the Tax Commission may prescribe, the Tax Commission or its delegate may issue a certificate of subordination of any lien imposed hereunder upon any part of the property subject to the lien if to do so is in the best interests of the Tribe. A certificate of release hereunder will be conclusive that the lien referred to in such certificate is partially or totally extinguished.

Section 4-2.80 Tax Protest

4-2.80.010 If any person is aggrieved by an assessment levied against the person by the Tax Commission, that person shall pay the amount of such assessment before the delinquent date and shall at that time give notice to the Tax Commission that all or part of such payment is made under protest. This notice shall be written, addressed to the Tax Commission and set forth the grounds and reasons for such protest and that a certain part of or the total sum is

protested.

4-2.80.020 Within ten (10) days thereafter, the aggrieved taxpayer may petition the Tax Commission for a hearing, and such petition shall set forth the tax and amount at issue. The Tax Commission shall grant the hearing and shall notify the petitioner of the time and place fixed for such hearing by written notice provided at least five (5) business days prior to the hearing.

4-2.80.030 After such hearing, the Tax Commission shall make such order in the matter as may appear just and lawful and shall furnish a copy of such order to the petitioner.

4-2.80.040 Within twenty (20) days after the entry of such order, the aggrieved taxpayer may bring an action or suit against the Tax Commission to recover any part of the tax claimed to be illegally or wrongfully collected. The Tribe hereby waives its sovereign immunity so the Tribal Court can and shall have original jurisdiction of any action or proceeding to recover any such tax claimed to be unlawfully collected and to order equitable or injunctive relief. It shall be necessary for the taxpayer to protest against the payment of the tax in the manner herein provided in order to maintain such suit. In any suit for recovery of taxes illegally collected, the court shall adjudge costs as in other civil actions. A decision of the Tribal Court shall be final.

4-2.80.050 In the event a final judgment is rendered in favor of the taxpayer, then it shall be the duty of the Tax Commission, upon receipt of a certified copy of such final judgment, to draw a check in favor of the taxpayer in an amount equal to the amount of tax found by the final judgment to have been collected illegally plus interest if ordered by the Tribal Court, within a period not exceeding thirty (30) days.

Section 4-2.90 Sales Tax

4-2.90.010 Any business that sells or transfers title to tangible personal property on the Reservation shall pay a sales tax to the Tax Commission at the rate of the current California State and local sales taxes in effect in Mendocino County, California, as adjusted from time to time. The applicable tax rate for any given day will correspond to the Mendocino County, California rate for that day, i.e., State rate plus local and county rate. The Tax Commission shall keep a record of such rates. If a sale is consummated by trade, barter or exchange for anything other than money, the tax shall be computed at the fair market value of the property sold. A business sells or transfers title to tangible personal property on the Reservation when the business is physically located on the Reservation, either temporarily or permanently, and makes a sale from its place of business or otherwise on the Reservation; or in the case the business is located outside the boundaries of the Reservation, the business delivers the purchased item to a location on the Reservation.

4-2.90.020 The legal incidence of this tax is on each business that sells or transfers title to tangible personal property on the Reservation. The invoice, receipt or other statement of payment must separately show the tax cost that is passed on to the consumer/purchaser.

4-2.90.030 On January 15, April 15, July 15 and October 15 of each year, any business subject to the sales tax shall report, with respect to the period of the preceding three (3) calendar months, the following to the Tax Commission:

(A) All sales subject to the tax as provided in this Section and as prescribed by regulation as adopted pursuant to this Ordinance.

(B) The amount of taxes due to the Tribe for the reporting period.

4-2.90.040 Each business shall pay the sales tax to the Tax Commission upon demand of the Tax Commission or, in the event an applicable regulation is adopted, pursuant to requirements as established by regulation. Each business shall be liable to the Tax Commission as on any other debt if it fails to pay the tax within ten (10) days of demand or, in the event regulations regarding payment are in effect, in the manner provided for by the regulations.

4-2.90.050 Each business is required to account for and remit the tax imposed by this Section, whether the purchase is by cash or credit. The invoice, receipt or other statement of payment given to the consumer/purchaser at the time of payment shall separately indicate the tax cost passed on to the consumer/purchaser. The business shall be liable for the payment of the tax, whether or not any additional tax-cost payment is actually collected from the consumer/purchaser.

4-2.90.060 Each business for a period of no less than four (4) years shall maintain accurate written records of all sales to consumers/purchasers, whether the consumer/purchaser pays by cash or credit, and shall make such records available for inspection at reasonable times by the Tax Commission.

4-2.90.070 The sales exempted under the California Revenue and Taxation Code, as amended, shall be the same sales exempted under this Ordinance.

Section 4-2.100 Possessory Interest Tax

4-2.100.010 There is hereby imposed a tax on possessory interests within the Reservation. The incidence of the tax and surcharge levied and imposed by this Section will be upon the lessee; the lessor and the lessor's interest in such leaseholds shall in no way become liable for the taxes herein levied.

4-2.100.020 The possessory interest tax shall be assessed at the rate of 2% of the market value of the possessory interest as determined and computed in accordance with this Section. Any modification to the tax rate established in this Section may be established by Tribal Council resolution.

4-2.100.030 There is hereby levied upon every valuable improvement within any possessory interest a surcharge tax equal to 1% of the market value of such valuable improvements per year. Valuable improvements will be assessed at the time at which the

possessory interests are assessed, but they may be reappraised pursuant to an appraisal schedule established by regulation of the Tax Commission or when it appears or the Tax Commission has information to indicate that the market value may have changed since the last appraisal; provided, that except upon request of a taxpayer, the Tax Commission shall not appraise any valuable improvement for at least six (6) months after the last appraisal and, provided further, that the Tax Commission shall promptly notify the lessee of the results of the appraisal within thirty (30) days.

4-2.100.040 All property that is subject to valuation under this Section for all or any part of any tax year will be valued as of March of each year. Tax assessments for the following year will be made based upon this value. The Tax Commission shall give all non-exempt taxpayers notice of the tax assessment and taxes due hereunder, and all taxpayers shall pay the taxes on their possessory interests within thirty (30) days of the date of said notice. Taxpayers showing good cause may pay half of the tax assessed against their possessory interests within the thirty (30) day period, and may pay the remaining half up to six months later.

4-2.100.050 The value of a possessory interest, including all property and improvements thereon, shall be 100% of market value, as that market value is stated on the assessment books of the county assessor, the BIA Land Title and Records Office, or other appropriate government agency as apportioned, if applicable, said apportionment being made on a acreage basis or on a per unit basis.

4-2.100.060 The following alternate methods of appraising property may be used:

(A) The Tax Commission may appoint at least three (3) disinterested persons from within or without the Tax Commission to appraise the fair market value of possessory interests and any improvement upon possessory interests on the Reservation. The appraisers shall personally view the subject property, inform themselves of the market value of similar properties in their local area, and make their appraisal accordingly. Whenever possible, one or more of the appraisers should be, or should consult with, some disinterested person approved by the Tax Commission who is engaged in the business of selling real estate on the open market.

(B) The Tax Commission may have the particular possessory interest assessed by a qualified independent appraiser when both the Tax Commission and the taxpayer holding the possessory interest agree in writing to each of the following:

(C) The particular independent appraiser to do the appraisal.

(D) That the taxpayer shall bear the costs of the independent appraisal.

(E) That the taxpayer shall accept the results of the independent appraisal.

(F) That the independent appraisal shall be completed by November 1 of the year preceding the tax year.

(G) Any Tribally or federally assisted public housing authority engaged exclusively in providing housing to low income persons may enter into an agreement with the Tribe for payments in lieu of the taxes hereby imposed. The Tax Commission is authorized to negotiate agreements with such housing authority for payments in lieu of taxes, subject to final approval by the Tribal Council.

4-2.100.070 Possessory interests may be forfeited for non-payment of taxes and surcharges, provided, that no person may be ousted from actual and peaceful possession and enjoyment of a possessory interest until a judgment of forfeiture of the possessory interest is entered by the Tribal Court or any other court of competent jurisdiction. The order of forfeiture of any possessory interest shall not relieve the lessee from any of the lessee's duties or obligations to the lessor.

4-2.100.080 Whenever the Tribal Council and the Tax Commission determine that it is in the best interest of the Tribe to retain any forfeited possessory interest as public Tribal property, the Tribal Council shall, by resolution, assume all of the obligations and duties of the lessee from the lessor. Thereafter, the Tribe shall be entitled to exercise all of the rights and powers of the original lessee in such possessory interest. The Tribe grants a limited waiver of its sovereign immunity so any lessor can and shall have the right to bring an action for declaratory or injunctive relief exclusively in the Tribal Court against the Tribe to enforce the lessor's rights in such assumed leases. In the alternative, any possessory interest forfeited by judicial proceedings for non-payment of taxes or surcharge may be sold as personal property is sold when such interest is not retained on behalf of the Tribe, unless such a sale is barred by federal law. The following steps shall be taken:

(A) The Tax Commission shall issue to the purchaser of the possessory interest: (1) an assignment on behalf of the Tribe; (2) a certified copy of the judgment of forfeiture issued by the Tribal Court; and (3) a notice to the purchaser that the assignment and judgment should be filed with the Superintendent of the Central California Agency of the Bureau of Indian Affairs and, when necessary, Secretarial approval should be obtained.

(B) The Tax Commission shall take all reasonable steps to ensure that possessory interest purchasers are qualified to hold such interests under the rules and regulations governing such interests established by the Secretary of the Interior, and request the assistance of the Superintendent when necessary in making such assignments.

(C) The purchaser of such interest shall execute an assignment that shall stipulate that the purchaser assumes all of the duties and obligations of the lessee from that date forward as set forth in the lease instrument and thereafter, with the approval of the assignment by the Secretary of the Interior, when necessary, the purchaser shall be entitled to exercise all of the rights and powers of the original lessee in such possessory interest.

(D) The Tax Commission shall inform the lessor within fifteen (15) days of the name of the purchaser of the possessory interest and the purchaser's address and

telephone number.

4-2.100.090 Any sublessee or other person interested in any possessory interest upon which taxes or surcharges are due and unpaid may file a return and pay on behalf of the lessee any taxes and surcharges due upon the possessory interest in order to protect the sublessee's or other person's rights in such possessory interest.

4-2.100.100 Upon payment of such taxes or surcharges, the payer shall be entitled to recover from the lessee the amount of such payment with interest thereon at the rate of 18% per annum.

4-2.100.110 If the lessee shall make payment of the taxes and surcharges due after they have been paid by some other person, the person making such payment on behalf of the lessee shall be entitled to a refund of the amount paid.

4-2.100.120 No possessory interest that consists of a service line of a utility that exclusively serves the Reservation or of a delivery or distribution facility of a utility that exclusively serves the Reservation shall be subject to taxation under this Section. Utility lines passing through the Reservation and providing service beyond the Reservation boundaries shall be subject to taxation under this Section.

4-2.100.130 No possessory interest held by the United States or by the Tribe shall be subject to taxation under this Section.

4-2.100.140 Churches and other buildings used for religious worship, and the land and improvements appurtenant to and used with such buildings, shall not be subject to taxation under this Section so long as the property is not used or held for profit or politics.

4-2.100.150 Notwithstanding any other provisions of this Ordinance to the contrary, any possessory interest of any enrolled member of the Tribe shall not be subject to taxation under this Section.

4-2.100.160 The Tax Commission shall provide forms for the reporting of the fair market value of all possessory interests and improvements thereon, with a completed determination and assessment of the taxes due.

(A) The Tax Commission shall mail a notice of tax assessments and taxes due to each possessory interest taxpayer by April 1 of each year, which tax shall be paid within thirty (30) days of said notice, unless another date is specified by the Tax Commission.

(B) Upon a written request to the Tax Commission, received by the Tax Commission within the thirty (30) days following the notice of taxes assessed and due, and for good cause shown, the Tax Commission may extend, for a period not to exceed thirty (30) days, the tax payment due date, but no further extension shall be allowed for any reason. Requests for extension received by the Tax Commission after this period of

extension shall not be considered. Taxpayers who are granted permission to pay half of the taxes assessed against them after initial notice and the remaining half six months later, provided above, are still subject to this extension period following each payment due date.

Section 4-2.110 Gross Receipt Tax

4-2.110.010 There is hereby imposed a specific tax on the following gross receipts:

- (A) The gross receipts of each Tribal business.
- (B) The gross receipts of any business located upon Tribal Land.

4-2.110.020 The amount of the tax imposed by this Section, based on a calendar tax year, shall be the sum of the following:

- (A) 1% of the gross receipts between \$50,000 and \$250,000.
- (B) 2% of the gross receipts between \$250,000.01 and \$500,000.
- (C) 3% of the gross receipts between \$500,000.01 and \$750,000.
- (D) 5% of the gross receipts between \$750,000.01 and \$1,000,000.
- (E) 7% of the gross receipts in excess of \$1,000,000.

4-2.110.030 The first fifty thousand dollars (\$50,000) in annual gross receipts is not subject to taxation under this Section.

- (A) On January 15, April 15, July 15 and October 15 of each year, any business subject to the gross receipts tax shall report, with respect to the period of the preceding three (3) calendar months, its taxable income and the amount of taxes due under this Section, and any regulations adopted pursuant hereto, to the Tax Commission.
- (B) An annual or final return for each tax year shall be filed with the Tax Commission, in the form and content prescribed by the Tax Commission, by April 15 of the succeeding year.
- (C) Each business shall pay the gross receipts tax to the Tax Commission upon demand of the Tax Commission or, in the event an applicable regulation is adopted, pursuant to requirements as established by regulation. Each business shall be liable to the Tax Commission as on any other debt if it fails to pay the tax within ten (10) days of demand or, in the event regulations regarding payment are in effect, in the manner provided for by the regulations.
- (D) Each business for a period of no less than four (4) years shall maintain accurate written records of all business income earned and shall make such records

available for inspection by the Tax Commission.

Section 4-2.120 Transient Occupancy Tax

4-2.120.010 There is hereby levied and imposed a tax upon the sale of or the charge made for the privilege of the furnishing of transient lodging units by a transient lodging establishment within the Reservation. The legal incidence of and liability for payment of the occupancy tax shall be on every person or firm operating a transient lodging establishment on the Reservation.

4-2.120.020 The tax rate imposed under this Section shall be the same rate charged in Mendocino County on the gross income from the sale of or charge made for the furnishing of transient lodging units. Under this Section, the gross income is all income derived from the sale of or charge made for the furnishing of lodging by a transient lodging establishment, but does not include income received from the sale of food, drinks, meals, room service, or valet service.

4-2.120.030 The tax herein levied and imposed shall be in addition to all other taxes.

4-2.120.040 On January 15, April 15, July 15 and October 15 of each year, any person or firm operating a transient lodging establishment shall report, with respect to the period of the preceding three (3) calendar months, its taxable sales and the amount of taxes due under this Section, and any regulations adopted pursuant hereto, to the Tax Commission.

4-2.120.050 Each person or firm so obligated shall pay the occupancy tax to the Tax Commission upon demand of the Tax Commission or, in the event an applicable regulation is adopted, pursuant to requirements as established by regulation. Each person or firm so obligated shall be liable to the Tax Commission as on any other debt if the person or firm fails to pay the tax within ten (10) days of demand or, in the event regulations regarding payment are in effect, in the manner provided for by the regulations.

4-2.120.060 Each person or firm operating a transient lodging establishment is required to account for and remit the tax imposed by this Section whether such payment is by cash or credit. The invoice, receipt or other statement of payment given to the guest at the time of payment shall separately indicate the tax cost passed on to the guest. The person or firm operating a transient lodging establishment shall be liable for the payment of the tax to the Tribe, whether or not any additional fee is actually collected from the guest.

4-2.120.070 Each person or firm operating a transient lodging establishment for a period of no less than four (4) years shall maintain accurate written records of all transient lodging units furnished to guests and shall make such records available for inspection by the Tax Commission.

4-2.120.080 The tax imposed under this Section does not apply to the leasing or renting of transient lodging units that are intended primarily to be leased or rented to persons as their permanent place of residence. Occupancy of real property for thirty (30) consecutive days or

more with the intent to make the occupancy a permanent place of residence constitutes a rental or lease of real property and is exempt from the provisions of this Section. Transient lodging establishments having fewer than 2 transient lodging units are also exempt from the provisions of this Section.

Section 4-2.130 Utility Business Activity Tax

4-2.130.010 There is hereby levied and imposed a business privilege tax on each utility for utility sales made for utility services provided to service users/consumers within the Reservation. The legal incidence of and liability for payment of the utility business activity tax shall be on each utility engaged in providing utility services to service users/consumers on the Reservation.

4-2.130.020 The tax rate imposed under this Section shall be 3% of the utility's gross receipts generated from retail sales within the Reservation. The gross receipts are the full selling price (or charges) billed by a utility for the retail utility services.

4-2.130.030 The tax herein levied and imposed shall be exclusive of all other taxes. Any other taxes imposed under this Ordinance shall not be applied to utility retail sales.

4-2.130.040 On January 15, April 15, July 15 and October 15 of each year, any utility shall report, with respect to the period of the preceding three (3) calendar months, its taxable utility sales and the amount of taxes due for the reporting period under this Section, and any regulations adopted pursuant hereto, to the Tax Commission.

4-2.130.050 Each utility so obligated shall pay the utility business activity tax to the Tax Commission upon demand of the Tax Commission or, in the event an applicable regulation is adopted, pursuant to requirements as established by regulation. Each utility shall be liable to the Tax Commission as on any other debt if the firm fails to pay the tax within ten (10) days of demand or, in the event regulations regarding payment are in effect, in the manner provided for by the regulations.

4-2.130.060 Each utility operating within the Reservation shall have the duty to remit the tax imposed on all utility services sold to service users/consumers, whether the service user/consumer pays by cash or credit, and shall account for the tax imposed herein. The invoice, receipt or other statement of payment given to the service user/consumer at the time of payment shall separately indicate the tax cost passed on to the service user/consumer, if any. The utility shall be liable for the payment of the tax to the Tribe, whether or not any additional fee is actually collected from the service user/consumer.

4-2.130.070 Each utility shall for a period of no less than four (4) years maintain accurate written records of all utility services provided to service users/consumers, whether the service user/consumer pays by cash or credit and shall make such records available for inspection by the Tax Commission.

4-2.130.080 The tax imposed under this Section shall not apply to sales at "wholesale" to a

utility for resale by that utility. The tax imposed under this Section shall not apply to gas or electrical sales made to any person using electrical and gas services who qualifies for and participates in the local electrical and gas corporation “Low Income Rate Assistance” program or such similar program approved by the Tax Commission. The Tax Commission may by regulation approved by the Tribal Council exempt from taxation under this Section sales made to low income individuals or households. The tax imposed under this Section shall not apply with respect to telephone calls made from coin-operated telephones made available to the public; toll charges for telephone calls from a member of the Armed Forces in a combat zone; and for utility services billed to non-profit health, education, social service or religious organizations recognized as such by the Tax Commission.

Section 4-2.140 General Provisions

4-2.140.010 Sovereign Immunity. Except as specifically provided herein, nothing in this Ordinance is intended to waive the sovereign immunity of the Tribe and this Ordinance shall not be so construed. Any suit or enforcement action brought under this Ordinance by the Tribe or a Tribal department shall not constitute a waiver of sovereign immunity, regardless of whether the taxpayer files a counterclaim.

4-2.140.020 Repealer. This Ordinance supersedes, replaces, and repeals all conflicting provisions of any and all prior laws, codes, ordinances, rules, and regulations of the Tribe (except those as required by any existing contractual arrangement). If the provisions of this Ordinance conflict with the provisions of any other law, code, ordinance, rule or regulation, the provisions of this Ordinance shall control.

4-2.140.030 Severability. If any provision of this Ordinance, or its application to any person or entity, is held to be invalid by a court of competent jurisdiction, the remainder shall not be affected and shall remain in full force and effect.

4-2.140.040 Amendment. This Ordinance may be amended or repealed by act of the Tribal Council. Tax rates set herein may be modified by Tribal Council resolution.

4-2.140.050 Effective Date. This Ordinance shall be effective thirty (30) days from the date of its approval by the Tribal Council.

History: Ordinance No. 08-10-21.

TITLE 5 BUSINESS AND COMMERCIAL

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Section 5-1.10 Definitions. For the purposes of this Ordinance, the following words shall have the following meanings:

(a) “*Court of Competent Jurisdiction*” means any arbitrator, arbitration proceedings or court that has jurisdiction over the Tribe.

(b) “*Hopland Band of Pomo Indians*” or “Tribe” means the Hopland Band of Pomo Indians.

(c) “*Hopland Indian Reservation*” or “*Reservation*” means all lands and waters located within the exterior boundaries of the Hopland Indian Reservation.

(d) “*Hopland Tribal Council*” or “*Council*” means the Tribal Council of the Tribe.

(e) Where the word “*State*” or “*State of California*” is used to describe the territory of the State and appears in §§1101 through 5117 and §§9101 through 9507 of the California Uniform Commercial Code, it shall be replaced by the word “*Reservation*” or “*Hopland Indian Reservation*” and so read in this Chapter. ·

(f) Where the word “*State*” or “*State of California*” is used to describe the State of California as a governmental entity in §§1101 through 5117 and §§9101 through 9507 of the California Uniform Commercial Code, it shall be replaced by the word “*Tribe*” or the phrase “*Hopland Band of Pomo Indians*” and so read in this Chapter.

Section 5-1.20 Adoption of Commercial Code. The Uniform Commercial Code of the State of California, set forth in California Uniform Commercial Code §§ 1101 through 5117 and §§9101 through 9507 are hereby adopted as the Commercial Code of the Tribe and shall be applied by the Tribal Court of the Hopland Band of Pomo Indians, or in the event that no Tribal Court exists, then in any court of competent jurisdiction, in resolving all contact disputes arising between the Tribe, its department, agencies, and business enterprises and any other person, corporation, or entity of any kind whatsoever. Notwithstanding any other provision of this Section or the California Uniform Commercial Code to the contrary, the Tribe may grant a secured interest in cash or revenues generated from the operation of any business, including any gaming conducted by the Tribe under the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq. And such security interest shall attach and be perfected in such cash or revenues, without possession by the secured party, upon the receipt thereof by the Tribe, and shall continue while in the possession or under the control of the Tribe, with or without the filing of any financial statement or statements. Any secured interest in cash or revenues generated from any business enterprise operated by the Tribe, requiring the filing of a financing statement to become effective shall be sufficient and shall remain in effect, once filed, without need for further renewal or extension if: (a) filed on the form UCC-1 presently acceptable for such purposes under the California Uniform Commercial Code and (b) filed in the office of the Secretary of the Hopland Tribal Council. The Secretary of the Hopland Tribal Council shall cause to be maintained such records available to the public as are commercially reasonable to evidence the filing of any such financing statements and the information therein contained and to provide notice to other creditors of the Tribe. For purposes of this Section, the term “Tribe” shall mean the Hopland Band of Pomo

Indians or any subdivision, agency, enterprise, or instrumentality of the Hopland Band of Pomo Indians.

Section 5-1.30 Grant of Tribal Court Jurisdiction to Hear Contract Disputes. The Hopland Tribal Court, or in the event no Tribal Court exists, then any court shall have jurisdiction over civil causes of action regarding the validity, interpretation of, and enforcement of commercial contracts between the Tribe, its agencies and departments or to which the Tribe, its agencies and departments are parties which arise on the Reservation and the Hopland Tribal Court shall apply the provisions of this Ordinance in resolving said disputes.

Section 5-1.40 Statute of Limitations. The applicable statutes of limitations period for a breach of contract action brought in the Hopland Tribal Court, or any court, arising under this Ordinance shall be as follows: (1) one year from the date that the cause of action accrued on a verbal contract; (2) four years from the date that the cause of action accrued on a written contract; and (3) one year from the date of the last billing statement on an open-book account.

Section 5-1.50 Conflict of Laws. If any of the provisions of the California Uniform Commercial Code conflict with the provisions of this Ordinance, the provisions of this Ordinance shall control.

Section 5-1.60 General Provisions

5-1.60.010 Severability. If any section, subsection, paragraph, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Hopland Tribal Council declares that it would have passed the remaining portions of this Ordinance, if any.

5-1.60.020 Repeal. All prior ordinances or provisions of any previously enacted ordinances of the Tribe that are inconsistent with this Ordinance are hereby repealed.

5-1.60.030 Effective Date. This Ordinance shall take effect immediately upon its passage.

History: Ordinance No. 01-03-02A; Ordinance No. 01-01-26B.

TITLE 6 EMPLOYMENT AND PERSONNEL

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CHAPTER 6-1 WORKER'S COMPENSATION ORDINANCE

Section 6-1.10 Short Title. This Ordinance shall be known as the Hopland Band of Pomo Indian's Worker's Compensation Ordinance.

Section 6-1.20 Purpose. The purpose of this Ordinance is to establish a systematic and uniform procedure for administration of worker's compensation benefits to all tribal Employees, including Employees of the Casino. This Ordinance shall also establish a systematic and uniform procedure to administer and define the Tribe's Worker's Compensation program, for meeting and resolving the Tribe's industrial injury liabilities, providing medical and vocational rehabilitation of tribal Employees who suffer work-related injuries, assessing risk of injury to Employees, and preventing abuse and fraud in the administration of this Ordinance.

Section 6-1.30 Declaration of Policy. The Tribal Council declares the following objectives in adopting this Ordinance:

6-1.30.010 To provide sure and prompt medical treatment for injured Employees, and fair, adequate and reasonable income benefits to injured Employees and/or Dependents.

6-1.30.020 To provide a fair and just administrative system for delivery of medical and income benefits to injured Employees that eliminates litigation and the adversarial nature of the compensation proceedings to the greatest extent practicable.

6-1.30.030 To restore the injured Employee physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable.

6-1.30.040 To provide the sole and exclusive source and means by which Employees and/or Dependents may seek and qualify for remedies for injuries arising out of and in the course of employment with the Employer.

Section 6-1.40 Scope of Coverage. All Employees are covered for Compensable Work Injuries whether the Accident and Work Injury occur on or off the Reservation. Benefits are limited as indicated in this Ordinance.

Section 6-1.50 Right to Benefits

6-1.50.010 Subject to the limitations and exclusions provided for in this Ordinance, every covered employee (or the covered employee's dependents, in the case of death) who sustains an injury directly related to his/her employment shall be entitled to receive benefits under this ordinance.

6-1.50.020 Except in the case of acute medical emergencies, the Tribe has the right to select the employees' health care provider.

6-1.50.030 The Tribe shall pay the usual and customary expenses for necessary medical emergencies and/or authorized medical treatment related to the compensable injury

Section 6-1.60 Exclusive Remedy. This Ordinance shall provide the exclusive method for compensating Employees for injuries sustained in the course and scope of their employment by the Tribe. The liability of the Tribe for all injuries arising out of and in the course of employment with the Tribe is limited to the compensation provided to injured Employees and/or Dependents pursuant to this Ordinance. Such liability shall not be expanded except by amendment of this Ordinance by the Tribal Council.

Section 6-1.70 Definitions.

(a) “*Accident*” means an event that causes or is believed to cause a Work injury.

(b) “*Administrator*” means the person or agency that is responsible for managing the Tribe’s Worker’s Compensation Program. The Administrator’s responsibilities include, but are not limited to, determining the compensability of claims, making payments to injured workers, medical providers and others; managing a trust account for the purpose of dispensing the Tribe’s worker’s compensation payments; taking reports to the Tribe regarding their program and individual claims. The Administrator’s duties are more fully described at Section 9 of this Ordinance.

(c) “*Average Weekly Wage*” means the average of the Employee’s wages earned during the thirteen (13) calendar weeks preceding the date of work injury, not including unreported tips and/or bonuses. Overtime is not to be considered in computing wages unless it is regular and frequent throughout the year. The thirteen weeks prior to the date of work injury are presumed representative, regardless of the wages earned. In the event that an Employee is employed for less than thirteen (13) consecutive calendar weeks immediately preceding the date of work injury, the average weekly wage shall be determined by multiplying the Employee’s daily wage by the number of days normally worked in the business in the employer. Daily wage is the actual daily wage of the Employee in the employment engaged in at the date of the work injury.

(d) “*Benefits*” means the findings or decision of the Administrator or designee regarding the amount of medical and lost time benefits due to an injured employee or the dependent of a deceased employee under the provisions of this Ordinance.

(e) “*Casino*” means the Hopland Sho-ka-Wah Casino, which is owned and operated by the Hopland Band of Pomo Indians.

(f) “*Child*” or “*Children*” means the child of an Employee, including a posthumous child, a child legally adopted prior to the injury, a child toward whom the Employee stands in loco parentis, an illegitimate child, and a stepchild, if such stepchild was, at the time of support. A child does not include any married children unless they are Dependents. A person might also qualify as a child according to tribal custom as determined by the applicable Tribal law.

(g) “*Claimant*” means any Employee, who suffers an injury either specific or cumulative, arising from that employment or occurring in the course and scope of that employment.

(h) “*Compensation*” means lost-time wages while disabled or unable to work due to a work related injury. Compensation includes situations in which the employer is unable to accommodate modified duty work within the physical restrictions determined by the treating physician.

(i) “*Compensable*” or “*Compensable Injury*” means a Work Injury to an Employee which arises during a period of employment and while performing the duties of the employment in or on the premises of the Employer or wherever the Employer requires the Employee to perform the employment activities as more fully described in this Ordinance.

(j) “*Council*” means the Tribal Council of the Tribe as established by the Tribal Constitution.

(k) “*Course of Employment*” means the Tribe’s employment of the covered employee at the time that the injury occurred. An injury must be directly related to the covered employee’s employment by the Tribe in order for a claim to be payable. Claims for injuries that occur during social or recreational activities are not payable, unless the employee was required by the Tribe to attend and was paid for his/her attendance at the activity by the Tribe.

(l) “*Covered Employee(s)*,” “*Employee(s)*,” and “*Worker(s)*” mean:

- (1) Every person in the employment of the Tribe, but does not include independent contractors or volunteers.
- (2) Specifically excluded from this definition of the terms “Covered Employee(s),” “Employee(s),” and “Worker(s)” are consultants, independent contractors ‘and all other persons not considered under common law to be employed by the Tribe, unless a written contract entered into by the Tribe and any such consultant, independent contractor, etc., provides for occupational injury benefits.

(m) “*Days*” means calendar days unless otherwise expressly provided.

(n) “*Dependent*” means the father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece or nephew or any other extended family member as approved by the Administrator, who at the time of the Compensable injury that causes the Employee’s death is actually and necessarily dependent in whole or in part upon the earnings of the Employee.

(o) “*Disarm*” means incapacity to earn wages in the same or any other employment caused by a Work Injury.

(p) “*Employee*” means a person, other than an independent contractor, employed by the Tribe or in the service of the Tribe under any contract of hire, express or implied, oral

or written, where the Tribe has the power or right to control and direct such individual in return for which such individual receives a salary or wages. For purposes of this Ordinance, Employee shall also include Council members, gaming commission members, committee members, and Casino employees. For purposes of this Ordinance, Employee does not include independent contractors, contractors and outside consultants.

(q) “*Employer*” means the Tribe.

(r) “*Maximum Medical Improvement*” means the date after which no significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability.

(s) “*Non-scheduled Injuries*” means injuries that result in permanent partial disability or permanent total disability which are not defined as scheduled member injuries.

(t) “*Occupational Disease*” means a disease, which is directly related to the employment. A disease is not directly related to the employee's employment if an employee would have been equally exposed to the hazard causing the disease outside of his/her employment activities for the Tribe.

(u) “*Occupational Injury Benefits*” include weekly benefits and medical benefits as defined as follows:

(1) “*Medical*” means medical expense and other expenses associated with medical treatment reasonably related to the work injury. Medical mileage expense will be paid at the rate of \$.37 per mile.

(2) “*Weekly Benefits*” means 66 2/3% of the employee's average weekly wage. In the case of temporary partial disability, the weekly benefit amount is 66 2/3 percent of the difference between the employee's average gross weekly earnings at the time of the injury and the employee's wages while temporarily working at the lesser paying job.

(3) “*Temporary Total Disability Benefits*” (“TDD Benefits”) means the weekly benefit paid when an injury results in three (3) or more calendar days of disability.

(4) “*Temporary Partial Disability Benefits*” (“TPD benefits”) means the weekly benefits paid if the employee returns to work at a lesser paying job because of the injury, but before the employee reaches maximum medical improvement. benefits paid for the partial loss of a scheduled member or a non-scheduled member.

(5) “*Permanent Partial Disability Benefits*” (PPD benefits”) means the weekly benefits paid for the partial loss of a scheduled number or a non-scheduled member.

- (6) “*Permanent Total Disability Benefits*” (“PTD benefits”) means the weekly benefits paid for a non-scheduled injury when the job-related injury leaves an employee totally and permanently incapacitated. This means that the employee’s physical disability causes the employee to be unable to secure anything more than sporadic employment resulting in an income of less than 90% of their average weekly wage at the time of the injury.
- (7) “*Death Benefits*” means the weekly benefits paid to dependents as a result of any fatality of the employee as a direct result of their employment.
- (v) “*Reservation*” means all land held or owned by the Hopland Band of Pomo Indians, including all lands held in trust by the United States of America for the benefit of the Tribe, whether or not such land has reservation status.
- (w) “*Scheduled Member Injuries*” means injuries that result in permanent partial impairment to the shoulder, arm, hand, thumb, fingers, hip, leg, foot, toes, eyes, or ears as set forth in the Schedule of Benefits, which is attached hereto and shall be updated as needed.
- (x) “*Spouse*” shall mean a husband or wife of the Employee. If an unmarried man and an unmarried woman have cohabited as husband and wife for over one year prior to the date of a Compensable Injury received by one or the other as an Employee, and that man and woman are the parents of a Child or Children, the surviving cohabitant shall be deemed a spouse for purposes of compensation under this Ordinance.
- (y) “*Tribe*” shall mean the Hopland Band of Pomo Indians of California.
- (z) “*Work Injury*” shall include any injury or disease arising out of and in the course and scope of employment, including injuries to artificial members, dentures, hearing aids, eyeglasses, and medical braces of all types; provided, however, that eyeglasses and hearing aids will not be replaced, repaired or otherwise compensated for, unless injury to them is incident to an injury causing disability. Where this Ordinance contains conflicting references to injury and occupational disease, the references to occupational disease shall prevail. Work Injuries under this section shall be classified as either:
- (1) “*Traumatic*” which is defined as a sudden specific incident, occurring as a result of one incident or exposure which causes disability or need for medical treatment; or,
- (2) “*Cumulative*” which is defined as a repetitive motion injury occurring over a period of time, or the finding(s) and decision(s) of the Administrator to accept in full or in part any claim submitted by a claimant regarding a Work Injury.

Section 6-1.80 Procedures for Reporting Injuries and Receiving Medical Treatment

6-1.80.010 Reporting Obligations.

(A) **Employee's Reporting Obligations.** An Employee must report any injury, no matter how slight, to his/her supervisor within twenty-four (24) hours of an Accident. Once the Employee reports the injury, the Employee must seek medical attention at the employer directed medical facility within thirty (30) days from the date of injury. No compensation or medical benefits will be paid if a Work Injury is not reported within fourteen (14) days of Work Injury. If the Work Injury incapacitates the Employee in a way that prevents the Employee from reporting the Work Injury, the fourteen (14) days will not begin to run until the inability to report the injury due to that incapacity ends. Another person on behalf of the Employee may report a Work Injury.

(B) **Supervisor's Reporting Obligations.** A supervisor, receiving a report or notice of a Work Injury from the Employee or another acting on the Employee's behalf, must promptly report the claim to the Administrator or to the Council's designee for reporting.

(C) **Tribe's Notice Obligations Related to Reporting,** The Tribe shall post and keep posted in a conspicuous location frequented by Employees, and where the notice may be easily read by Employees during the hours of the workday, a notice which shall state the name of the Administrator. The notice shall advise Employees of their reporting obligations under this Section. The notice shall also include information as to the injured Employee's right to receive medical care, to select and change the treating physician and the right to receive temporary disability indemnity, permanent disability indemnity, vocational rehabilitation services, and death. benefits.

6-1.80.020 Obligations of Administrator. The Administrator will act on behalf of the Tribe in receiving and processing Worker's Compensation claims under this Ordinance. The responsibility of the Administrator to make determinations and decisions will include, but not be limited, to the following areas.

(A) Based upon investigation and available information, the Administrator will make a determination of the responsibility of the Employer and will either accept or deny a claim. Within thirty (30) days of receipt of a First Report of Injury, the Administrator will advise the Employee and Employer of its determination. Where necessary, the Administrator may extend the determination period up to an additional ninety (90) days.

- (B) The Administrator will determine the reasonableness and necessity of medical care and charges and will determine amounts payable under this Ordinance. The Administrator will also approve or disapprove any change of primary Physician, referral to a Referral Physician, or Surgical Procedure.
- (C) Based on information supplied by the Employer and/or Employee, the Administrator will determine the Compensation Rate payable for Temporary Total, Temporary Partial, and Permanent Partial Disability, and for Dependency.
- (D) The Administrator will determine the length of time during which Temporary Total Disability or Temporary Partial Disability Benefits are payable.
- (E) The Administrator will determine the amount of Permanent Partial Disability Benefits payable.
- (F) The Administrator will determine the eligibility of Dependents and the term of any Dependency Benefits payable.
- (G) In the event of the need to allocate Dependency Benefits between Dependents living in different households, the Administrator will make the necessary allocation, based on the obligations, legal or otherwise of the descendent.
- (H) If an Employee's claim is subject to the limitations of Section 7.06.020, the Administrator will advise the Employee and Employer of the effect of this limitation in writing.
- (I) The Administrator will, on behalf of the Employer, vigorously pursue any cause of action assigned to the Employee under Section 7.06,040.

6-1.80.030 Medical Care. Employer shall furnish reasonable medical services and supplies to treat injured Employees, but the employer may designate the medical care providers from whom the Employee shall seek treatment for injuries and occupational diseases under this Ordinance.

- (A) The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the Employee.
- (B) If an Employee obtains a written statement indicating the employer's prior approval of treatments by a non-designated provider, such medical services are covered under this Ordinance.
- (C) If an Employee is dissatisfied with the medical care offered by the designated providers, the Employee shall submit a written statement to the employer indicating this dissatisfaction and the reasons for it.

- (1) Based on this statement, the Employee and Employer may agree that an Employee shall be permitted to seek alternative treatments or care providers.
- (2) If the Employee and the employer cannot agree as to alternative care, the Employee may receive a second opinion by a care provider of the Employee's choice.
- (3) The Employee must receive the employer's prior approval before receiving any treatments from the care provider chosen by the Employee. If prior approval is not obtained, the employer is not responsible for any expense except the initial evaluation.
- (4) Other care providers used by the Employee may confer with and obtain information on the Employee's condition from the employer-retained physician or medical care provider.

6-1.80.040 Examination for Claims. Whenever a worker makes a claim for compensation, the worker shall submit to reasonable, additional examinations by physicians, chiropractors, psychologists, podiatrists, or vocational experts that are provided and paid for by the employer or insurer upon written request of that party.

(A) An employer or insurer who requests such an examination shall pay the worker all necessary expenses, including reasonable transportation expenses. The use of a private automobile shall be reimbursed at the same rate as that set by the United States Federal Services Administration for mileage, which, at the time of the enactment of this ordinance is \$.37 per mile.

(B) The worker is entitled to have a doctor that is selected by and paid by the worker present at the examination. The worker may also request and receive a copy of all reports of the examination.

6-1.80.060 Refusal to Submit to Examination. If the Employee, after a written request of the examinations, the Employee's right to begin or maintain any proceeding for worker's compensation is suspended, unless it is shown that the request is unreasonable.

6-1.80.070 Testimony of Treating Physician Any physician, chiropractor, psychologist, podiatrist or vocational expert who is present at any examination under Section 6-1.80.040 or attended to an Employee for any condition or complaint reasonably related to the condition for which the Employee claims compensation:

- (A) May be required to testify as to the results of their examination.

- (B) May be required to furnish information and reports, relative to the claim, to the worker, employer or insurer.

6-1.80.080 Waiver of Doctor-Patient Privilege. An Employee, who reports an injury alleged to be work-related or files an application for a hearing, waives all doctor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the worker claims compensation. Any physician, chiropractor, psychologist, podiatrist, dentist, hospital, or health care provider shall, within a reasonable time after written request, provide the worker, employer, or insurer with any information or written material reasonably related to any injury for which the worker claims compensation. Employee must sign an authorization to release the medical records in order to allow Administrator to obtain those records.

Section 6-1.90 Procedures for Appeal of Determinations of Administrator

6-1.90.010 Informal Dispute Resolution. Any Employee or Dependent who disagrees with a determination made by the Administrator may request a hearing before the Appeal Board. Any Employee or Dependent shall file a written request for a hearing before the Appeal Board within fifteen (15) days of receipt of a disputed written decision from the Administrator. The written decision of the Administrator shall contain a notice of the Employee's appeal rights, including the time within which the appeal must be filed, the consequences if an appeal is not timely filed, and the name and address where the appeal must be filed. "Filed" means delivered to the address indicated in the Administrator's decision before 5 p.m. If the Employee or Dependent files with the Appeal Board a request for a hearing, the Appeal Board may, within thirty (30) days, set a date on which the parties, or their legal representatives, may meet with one member of the Board to discuss and attempt to resolve the issues through mediation. The Board member will moderate the discussion and may offer opinions and advice to the parties but will not reach any decision on the issues. If the Employee or Dependents and the Employer's representative reach an agreement on any of the issues, such agreement will be reduced to writing by the parties and will be binding on the parties. Failure of any Employee or Dependent to request a hearing within the time specified herein renders the Administrator's decision final and waives any further right to appeal that decision to the Appeal Board or otherwise.

6-1.90.020 Hearing Before Appeal Board If no meeting is requested under Section 6.1.90.010 by an Employee or Dependent, or if a meeting under Section 6.1.90.010 fails to resolve the issue, the matter will be scheduled for a hearing before the full Appeal Board within ninety (90) days of the receipt of a written request for a hearing from the Employee or Dependents. The Employee or Dependents may request in writing one extension of the initial hearing date of up to ninety (90) days, which must be granted by the Board.

- (A) **Written Notice of Hearing Date.** The Appeal Board shall send written notice to each party informing him or her of the hearing date a minimum of thirty (30) days prior to the hearing.

(B) Independent Arbiter. The Council will appoint three (3) individuals to act as an Appeal Board to hear any issues and make any necessary final determination relative to Compensability of a Work Injury, medical care or charges, extent of Disability, Dependency, or any other issue that may arise under this Ordinance. The Appeal Board will hear the issue(s) *de novo*.

(C) Composition of Appeal Board. The members of the Appeal Board will include one member selected by the Council, one member selected by the Employees of the Tribe and one other member who is neither a member of the Council nor employed by the Tribe selected and approved by the Council.

6-1.90.030 Conduct of Hearing. The Appeal Board will consider evidence, hear witnesses and receive exhibits in keeping with its goal of making a just final determination.

6-1.90.040 Standard of Proof. The Appeal Board will weigh the evidence, testimony of witnesses, and exhibits- and will make its decision on the basis of the preponderance of evidence and credibility of the evidence and witnesses.

6-1.90.050 Burden of Proof. The burden of proof in any hearing before the Appeal Board will be on the Employee or Dependents. A Dependent shall at any time upon request furnish the Administrator with proof satisfactory to the Administrator of the nature, amount and extent of the contribution by the Employee for such Dependent's support and shall have the burden of proof on such issue in any hearing before the Appeal Board.

6-1.90.060 Right to Counsel. The Employee or Dependents may have legal representation at any hearing before the Appeal Board. The cost of representation will be borne by the Employee or Dependents.

6-1.90.070 Law to Apply. The Administrator and Appeal Board shall follow Tribal law. In the absence of tribal law, California case law may be used as a non-binding source of guidance.

6-1.90.080 Final Decision. Any final Decision of the Appeals Board must represent the concurrence of a majority of two of the Board members. An appeal Board Decision must be issued in writing and copies must be mailed to all interested parties. The Decision shall generally review the evidence and testimony and may compare the merits of the evidence or testimony of the opposing parties. The Decision shall state the final determination of the Appeal Board on all issues before it. All Decisions of the Board are final. No attorneys' fees, costs or punitive damages shall be awarded against any Employer in such action.

6-1.90.090 Effect of Request for Hearing on Benefits. During the pendency of the action, the Employee or Dependents shall continue to receive all benefits approved by the Administrator in its original written decision, but shall not receive any new benefits claimed before the Appeal Board. Payments made to claimant during the pendency of the action shall not be recouped or recovered by the Administrator or the Employer, except in the case of fraud.

Section 6-1.100 Benefits, Exclusions and Limitations on Benefits

6-1.100.010 Worker's Compensation Benefits. Worker's Compensation benefits shall include:

- (A) Medical Costs Covered. Usual and customary medical costs will be approved by the Administrator.
- (B) Medical Service Providers. Medical Services and providers will be approved by the Administrator.
- (C) Schedule of Benefits. The schedule of benefits for Employee injuries or death are set forth in Addendum A, which shall be updated as necessary by the Tribal Director of Human Resources.

6-1.100.020 Temporary Disability.

- (A) If the injury causes temporary partial or temporary total disability, the disability payment is two-thirds (2/3) of the average weekly earnings. No payment is due during the first three (3) days after the Employee leaves work as a result of injury.
- (B) Such payments will be reduced by the sum of unemployment compensation benefits and extended duration benefits received by the Employee during the period of such disability. The injured Employee shall report any pensions, disability payments or earnings to the Third Party Administrator within ten (10) days of receipt of such funds.

6-1.100.030 Permanent Partial Disability (PPD). For purposes of this Ordinance, Permanent Partial Disability shall mean a permanent disability with a rating of less than 100 percent permanent disability.

- (A) In determining the percentages of permanent disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured worker, and the Employee's age at the time of the injury and consideration being given to the diminished ability of the Employee to compete in an open labor market.

(B) The schedule of the administrative director of the California Department of Worker's Compensation may be used as guidance in determining the percentages of permanent disability, but is not prima facie evidence of a percentage of disability.

(C) Payment of Permanent Partial Disability benefits shall begin from the date of receipt of the Employee's final disability rating.

6-1.100.040 Permanent Total Disability

(A) Permanent total disability is a disability that precludes the injured Employee from any and all gainful employment. There shall not be any presumptions of permanent total disability.

(B) Compensation shall be paid at the appropriate weekly rate for temporary disability subject benefits.

(C) An Employee will receive permanent total disability benefits until age sixty-five (65) or when they become eligible for Social Security Disability.

6-1.100.050 No Compensation after Death or Retirement. No compensation under this section shall be payable subsequent to the death or retirement of the injured Employee.

6-1.100.060 No Compensation If Incarcerated, No compensation under this section shall be payable upon the incarceration of Employee.

6-1.100.070 Fatality Income Benefits.

(A) When an injury causes death within five (5) years from the date of the injury, the Employer will be liable for compensation to the Dependents of the injured Employee as provided for in this section. The Dependent(s) must be a spouse or a minor child, totally or partially dependent upon the injured worker, at the time of the injury and at the time of death in order to qualify for benefits.

(B) The death benefit will be four times the annual earnings from the Tribe, not to exceed the maximums set forth in Addendum A to this Ordinance.

(C) The death benefit will be paid at a weekly rate of two thirds (2/3) of the average weekly wage of the deceased Employee while employed by the Tribe, subject to a maximum and a minimum per week compensation rate set forth in Addendum B. Benefits shall cease upon the remarriage of the Spouse, upon the minor child or children turning 18 years of age, or both.

(D) The weekly compensation will be divided between the qualifying dependents in proportion to the percentage of support each received from the deceased Employee. It will be presumed that each qualifying dependent received equal support from the deceased Employee.

6-1.100.080 Exclusions from Coverage and Limitations on Coverage and Compensation.

(A) Acts Outside Course or Scope of Employment. Liability for compensation shall not exist against the Tribe for any injury sustained by an Employee if the injury occurs under any of the following circumstances:

- (1) An accident occurring to an Employee while on the way to or from work is not within the due course or scope of employment unless such travel is in direct connection of the Employee's work.
- (2) Where the injury is caused by the intoxication, by alcohol or the unlawful use of a controlled substance, of the injured Employee; or
- (3) Where the injury is self-inflicted; or,
- (4) Where the Employee has willfully and deliberately caused his or her own death; or,
- (5) Where the injury arises out of an altercation in which the injured Employee is the initial physical aggressor; or,
- (6) Where the injury is caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the California Penal Code, by the injured Employee and the Employee is found to have committed such act by a preponderance of the evidence; or,
- (7) Where the injury arises out of voluntary participation in any off- duty recreational, social, or athletic activity not constituting a part of the Employee's work related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment.

(B) Exclusions From Coverage. Employees determined to be acting outside of the course or scope of their employment shall be afforded no coverage under this Ordinance.

- (1) An injury occurring to an Employee while on the way to or from work is not within the course of employment except when such travel is directly connected with the Employee's work. This exception will not apply if the Employee deviates from the reasonably direct route of travel, or is not acting in the interest of the employer at the time of injury.
- (C) Where the injury is self-inflicted. If the injury follows repeated documented violations of work rules, it may be regarded as a self-inflicted injury. If the injury resulted from a documented violation of safety policies, determined after a thorough investigation by the Tribal Safety Director and Human Resources Director, it will be regarded as a self-inflicted injury and therefore not compensable. In order for this exclusion to apply, the employer shall be required to show that the Employee knew or reasonably should have known of the safety policies or workplace safety rules, whether as a result of a safety training program, exposure to an employer safety manual with which the Employee was directed to conduct their employment activities, or other reasonable means customarily used by the employer to inform Employees of its safety policies and work rules.
- (D) Where the Employee has willfully and deliberately caused his or her own death.
- (E) Where the injury arises out of an altercation in which the injured Employee is the initial physical aggressor.
- (F) Where the injury is caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the California Penal Code, by the injured Employee and the Employee is found to have committed such act by a preponderance of the evidence.
- (G) Where the injury arises out of voluntary participation in any off duty recreational, social, or athletic activity not constituting a part of the Employee's work related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment.
- (H) No benefit shall be payable if the injury or occupational disease results from the Employee's use of alcohol or, controlled substances as solely determined by laboratory analysis of a breath, urine, bodily fluid swab, or blood sample. An employee's refusal to submit to a test for the presence of alcohol or controlled substances, when requested by employer shall result in a denial of any claim by an Employee under this Ordinance.
- (I) No benefit shall be payable for heart attack, heart disease, or hypertension.

(J) No benefit shall be payable for the death or permanent disability of an Employee if the Employee's death or permanent disability is caused by, aggravated, or continued by, an unreasonable refusal or neglect to submit to or follow any competent or reasonable surgical treatment or medical aid or advice by a qualified health care provider.

(K) No benefit shall be payable for injury where refusal or failure of the injured Employee to obey written or verbal instructions by the employer, or failure or refusal to use a safety device or appliance furnished by the employer, which if obeyed or used, would have reasonably prevented or significantly reduced the likelihood of injury or death.

(L) Mental injuries such as stress or psychological condition are not covered by this Ordinance.

(M) Tobacco: Claims due to tobacco use or second-hand smoke in the workplace shall not be compensable.

(N) Mold: Claims due to injuries or occupational disease caused by mold in the workplace shall not be compensable.

(O) For purposes of hourly Employees, injuries that occur on tribal property before clocking in for a shift or after clocking out completing a shift are not covered by this Tribal Ordinance.

(P) For traumatic injury: The claim shall be denied if there is no specific incident which caused the injury, and if the Employee is at no greater risk than the general public and is not performing employment related duties.

(Q) For cumulative injury: The claim shall be denied if the Employee fails to report a claim within fourteen (14) days from the initial onset of pain or injury. The claim shall also be reduced for cumulative injury based on the Employee's length of employment.

(R) Compensation shall not be paid for any period during which an Employee:

- (1) Declines or quits work within the Employee's physical restrictions; or,
- (2) Is terminated for misconduct; or,
- (3) Does not have authorization from the company's physician provider to be off work; or,
- (4) Fails to report other employment.

6-1.100.090 Limitations on Compensation

- (A) In cases where it is determined that periodic benefits granted by the federal Social Security Act are paid to the Employee because of disability, the benefits payable under this Ordinance shall be reduced.
- (B) The Employee may not claim compensation for disability if he or she was rehired in a position where actual wages lost in comparison with earnings at the time of the injury equals or exceeds fifteen percent (15%).
- (C) Compensation, for a claim due to an injury or occupational disease, will be reduced if the Employee has been employed for a limited time, as follows:
- (1) Employees are not eligible for compensation when employed full- time for a period up to four (4) months.
 - (2) Employees receive twenty-five percent (25%) of eligible compensation for an injury or occupational disease claim made while employed full-time for a period of four (4) to eight (8) months,
 - (3) Employees receive fifty percent (50%) of eligible compensation for an injury or occupational disease claim made while employed full-time for a period of eight (8) to twelve (12) months.
 - (4) Employees receive seventy-five percent (75%) of eligible compensation for an injury or occupational disease claim made while employed full-time for a period of twelve (12) to eighteen (18) months.
 - (5) Employees are eligible for full compensation after employed full- time more than eighteen (18) months.
 - (6) The time frames, provided above, shall be lengthened on a pro-rata basis for Employees who are employed on a part- time basis, including those Employees who are classified as full time but average less than forty (40) actual hours worked.

6-1.100.100 Pre-existing Medical Conditions. If the worker has a pre-existing medical condition when an injury or occupational disease arises and that condition delays or prevents complete recovery; it shall be ascertained, as nearly as possible:

- (A) The period over which the injury would have caused disability, were it not for the pre-existing condition; and,
- (B) The extent of the impairment, which the injury would have caused, was it not for the pre-existing condition.

- (C) Compensation shall only be awarded for the period and extent of the injury or occupational disease not attributable to the pre-existing medical condition.

6-1.100.110 Non-Compliance. If the Administrator determines that there is an issue of non-compliance by the Employee with authorized medical treatment, the Administrator will notify the Employee in writing they have seven (7) days to the Administrator to resolve the non-compliant issue or the Worker's Compensation Benefits will be denied from the date of the letter forward.

- (A) Documented evidence that the Employee has failed to follow Physician's restrictions on two or more occasions, while either at work or outside the workplace will result in a denial of future Worker's Compensation Benefits.

Section 6-1.110 Miscellaneous Provisions

6-1.110.010 Statute of Limitations. Except as otherwise provided herein; the right to benefits for Disability, Death or permanent impairment under this Ordinance shall be barred unless a Claim therefore is filed with the Administrator within fourteen (14) days after occurrence of the Compensable injury. The time for filing a Claim shall not begin to run until the Employee or Dependent is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment.

6-1.110.020 Compromise and Release. Nothing in this Ordinance shall impair the rights of the parties to compromise any liability that is claimed to exist under this Ordinance on account of injury, disease or death, subject to the provisions herein. After reaching a compromise, a copy of the release or compromise agreement signed by both the claimant and the Administrator shall be presented to the Appeal Board for approval. If approved, the Administrator shall enter an award based on the release or compromise agreement.

6-1.110.030 Claim Closure.

- (A) An Employee's compensation claim shall be closed after payment of the Employee's last medical treatment when the health care provider determines that the injured Employee has reached the point where no further material improvement would reasonably be expected from medical treatment or the passage of time; or,

- (B) When the insurer determines that the insurer will deny an Employee's claim for compensation, the Employee shall be informed about the availability of dispute resolution proceedings.

6-1.110.040 Recovery or Payments Made Due to Error, Erroneous Adjudication, Fraud, Etc.

(A) Wherever any payment of Compensation under this Ordinance is made because of clerical error, mistaken identity, innocent misrepresentation by or on the behalf of the recipient thereof mistakenly acted upon, or any other circumstances of a similar nature not induced by fraud, the recipient thereof shall repay it. The Administrator must make a claim for such repayment or recoupment within one year of making any such payment or it will be deemed that any claim therefore has been waived. The Administrator may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(B) Whenever any payment of Compensation under this Ordinance has been made pursuant to a determination by the Administrator and timely protest or appeal there from has been made, where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it. The Administrator may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(C) Whenever any payment of benefits under this Ordinance has been induced by fraud, the recipient thereof shall repay any such payment together with a penalty of 50 percent of the total of any such payments. Such repayment or recoupment must be demanded within one year of the discovery of the fraud.

6-1.110.050 Insurance. The Tribe shall procure and maintain in effect insurance with sufficient coverage and policy limits to provide the benefits authorized by this Ordinance.

6-1.110.060 Subrogation of Claims.

6-1.110.070 Definitions. As used in this Section 6-1.110:

- (a) “*Employee*” includes the person injured and any other person to whom a claim accrues by reason of the injury or death of the former.
- (b) “*Employer*” includes insurer providing the insurance required by this Chapter.
- (c) “*Employer*” means the Tribe.

(A) Survival of action. The death of the Employee or of any other person; does not abate any right of action established by this chapter.

(B) Action against third person; rights of Employee and employer. The claim of an Employee does not affect his or her claim or right of action for all damages proximately resulting from the injury or death against any person other than the employer. Any employer who pays, or becomes obligated to pay compensation, or who pays, or becomes obligated to pay salary in lieu of compensation, or who pays or becomes obligated to pay an amount to the Department of Industrial Relations pursuant to California Labor Code Section 4706.5, may likewise make a claim or bring an action against the third person. In the latter event the employer may recover in the same suit, in addition to the total amount of compensation, damages for which he or she was liable including all salary, wage, pension, or other benefits paid to the Employee or to his or her dependents.

(C) Copy of complaint; proof of service; joinder of plaintiffs; consolidation of actions. If either the Employee or the employer brings an action against such third person, he shall forthwith give to the other a copy of the complaint by personal service or certified mail. Proof of such service shall be filed in such action. If the action is brought by either the employer or Employee, the other may, at any time before trial on the facts, join as party plaintiff or shall consolidate his action, if brought independently.

(D) Action by employer alone; evidence of compensation payments and liability. If the action is prosecuted by the employer alone, evidence of any amount which the employer has paid or become obligated to pay by reason of the injury or death of the Employee is admissible, and such expenditures or liability shall be considered as proximately resulting from such injury or death in addition to any other items of damage proximately resulting there from.

(E) Action by Employee; evidence of compensation payments and liability or loss of Employee's earning capacity; proof of other items of damage. If the Employee joins in or prosecutes such action, either the evidence of the amount of disability indemnity or death benefit paid or to be paid by the employer or the evidence of loss of earning capacity by the Employee shall be admissible, but not both. Proof of all other items of damage to either the employer or Employee proximately resulting from such injury or death is admissible and is part of the damages.

(F) Actions against third party; payment of excess recovery to Employee; employer's lien against judgment; costs and fees. In the event of suit against such third party:

- (1) If the action is prosecuted by the employer alone, the court shall first order paid from any judgment for damages recovered the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the employer's attorney in effecting recovery both for the benefit of the employer and the Employee. After the payment of such expenses and attorney's fees, the court shall apply out of the amount of such judgment an amount sufficient to reimburse the employer for the amount of his expenditure for compensation together with any amounts to which he may be entitled as special damages under Section 19.3 and shall order any excess paid to the injured Employee or other person entitled thereto.
- (2) If the action is prosecuted by the Employee alone, the court shall first order paid from any judgment for damages recovered the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the Employee's attorney in effecting recovery both for the benefit of the Employee and the employer. After the payment of such expenses and attorney's fee the court shall, on application of the employer, allow as a first lien against the amount of such judgment for damages, the amount of the employer's expenditure for compensation together with any amounts to which he may be entitled as special damages under Section 19.3.
- (3) If the action is prosecuted both by the Employee and the employer, in a single action or in consolidated actions, and they are represented by the same agreed attorney or by separate attorneys, the court shall first order paid from any judgment for damages recovered, the reasonable litigation expenses incurred in preparation and prosecution of such action or actions, together with reasonable attorneys' fees based solely on the services rendered for the benefit of both parties where they are represented by the same attorney, and where they are represented by separate attorneys, based solely upon the service rendered in each instance by the attorney in effecting recovery for the benefit of the party represented. After the payment of such expenses and attorneys' fees the court shall apply out of the amount of such judgment for damages an amount sufficient to reimburse the employer for the amount of his expenditures for compensation together with any other amounts to which he may be entitled as special damages under Section 19.3.

- (4) The amount of reasonable litigation expenses and the amount of attorneys' fees under subdivisions (F)(1) through (F)(3) of this section shall be fixed by the court. Where the employer and Employee are represented by separate attorneys they may propose to the court, for its consideration and determination, the amount and division of such expenses and fees.

Section 6-1.120 Claim Files and Records Confidential. Information contained in the claims files and record of injured Employees under the provisions of this Ordinance shall be deemed confidential and shall not be open to public inspection. The Employee, Dependents or representatives of the same, be it an individual or an organization, may review a claim file or receive specific information there from upon the presentation of the signed authorization of the claimant. The Employer or its duly authorized representatives may review any files of their own injured Employees in connection with any pending claims. Physicians treating or examining Employees claiming benefits under this Ordinance, or physicians giving medical advice to the Administrator regarding any claim may, at the discretion of the Administrator, inspect the claims files and records of the injured Employee; and other persons may make such inspection, at the Administrator's discretion, when such persons are rendering assistance to the Administrator at any stage of the proceedings on any matter pertaining to administration of this Ordinance.

Section 6-1.130 General Provisions

6-1.130.010 Severability. If any part of this Ordinance is held to be invalid, the remainder shall continue to be in full force and effect to the maximum extent possible.

6-1.130.020 Effective Date, Amendment. This Ordinance shall be effective from the date of its approval by the Tribal Council. This Ordinance may be amended in accordance with the tribal law.

6-1.130.030 Sovereign Immunity. Nothing hereunder is intended to be or shall be interpreted to be a waiver of Sovereign Immunity of the Tribe from unconsented in Tribal, Federal or State court, or administrative proceeding except to the extent expressly stated herein.

ADDENDUM A
SCHEDULE OF BENEFITS

(A)	Scheduled Member Injuries:	
(1)	SHOULDER .	250 weeks
(2)	ARM	
	(a) 2/3 of arm between shoulder & elbow	250 weeks
(3)	HAND Total	190 weeks
(4)	THUMB	
	(a) Total	60 weeks
	(b) More than one phalange	60 weeks
	(c) At distal phalange	30 weeks
(5)	INDEX FINGER	
	(a) Including Metacarpal	35 week
	(b) More than one phalange	35 weeks
	(c) At distal phalange	17.5 weeks
(6)	SECOND FINGER	
	(a) Including metacarpal	30 weeks
	(b) More than one phalange	30 weeks
	(c) At distal phalange	15 weeks
(7)	THIRD FINGER	
	(a) Including metacarpal	25 weeks
	(b) More than one phalange	25 weeks
	(c) At distal phalange	12.5 weeks
(8)	FOURTH FINGER	
	(a) Including metacarpal	20 weeks
	(b) More than one phalange	20 weeks

	(c) At distal phalange	10 weeks
(9)	HIP	220 weeks
(10)	LEG	
	(a) 2/3 of a leg between hip & knee	220 weeks
(11)	FOOT	
	(a) At ankle	150 weeks
(12)	GREAT TOE	
	(a) Including metatarsal	40 weeks
	(b) Loss of more than one phalange	40 weeks
	(c) Loss of one phalange	7.5 weeks
(13)	OTHER TOES	
	(a) Including metatarsal	15 weeks
	(b) Loss of more than one phalange	15 weeks
	(c) Loss of one phalange	7.5 weeks
(14)	14. ONE EYE	
	(a) Total blindness	140 weeks
	(b) With other eye lost prior to injury	200 weeks
(15)	EARS	
	(a) Total deafness, one ear	50 weeks
	(b) Total deafness, both ears	175 weeks

- (16) FOR LOSS OF BOTH SHOULDERS, OR BOTH ARMS, OR BOTH HANDS, OR BOTH FEET, OR BOTH LEGS, OR BOTH HIPS, OR BOTH EYES, OR ANY TWO THEREOF, CAUSED BY A SINGLE INJURY 400 weeks
- (B) Non-Scheduled Injuries

Non-Scheduled / Industrial Disability shall be paid on the basis of four hundred (400) weeks. Permanent Total Disability (PTD) for non-scheduled injuries are payable as long as the Employee remains permanently totally disabled or until age sixty-five (65) whichever occurs first.

If any portion of the PPD rating, ("PPD" as defined in this Chapter) is attributable to a preexisting condition, whether previously rated or not, the Employee shall receive PPD benefits only for that portion of the permanent injury attributable solely to the work injury.

PPD ratings are to be secured from a qualified health care provider in accordance with the American Medical Association (ASIA) guidelines or other nationally recognized rating method.

Once the Administrator has obtained a PPD rating the Employee may obtain a PPD rating from a qualified health care provider of the Employee's choice at the Tribe's expense, subject only to the approval of the fee by the Administrator. This opinion must be scheduled within thirty (30) days from the Employee's physician of choice, if there is a difference between the two ratings, then the rating average will be taken. This will be the final rating.

- (C) Death Benefits. The death benefit will be four times the annual earnings from the Tribe, not to exceed the maximums set:

Spouse minor child or children:	\$115,000.00
Spouse only:	\$95,000.00
Minor Child or Children Only:	\$95,000.00
Additional Maximum Burial Allowance:	\$5,000.00.

The death benefit will be paid at a weekly rate of two-thirds (2/3) of the average weekly wage of the deceased Employee while employed by the Tribe, subject to a maximum compensation rate \$406.00 and a minimum rate of \$224.00 per week. Benefits shall cease upon the remarriage of the Spouse, upon the minor child or children turning 18 years of age, or both.

History: Ordinance No. 04-06-07.

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CHAPTER 7-1 HOPLAND BURIAL ORDINANCE

Section 7-1.10 Short Title. This Code shall be known as the “Hopland Burial Ordinance”.

Section 7-1.20 Purpose. The purpose of this Code is to exercise comprehensive Tribal regulatory authority over all burials occurring within the exterior boundaries of the Hopland Reservation, and to protect the public health and safety and general welfare of the Hopland Reservation. Therefore, the unauthorized burial, interment, entombment, or disposal of deceased persons is prohibited within the boundaries of the Hopland Reservation.

Section 7-1.30 Definitions.

(a) “*Applicant*” is defined as an individual who is eligible, in accordance with this Burial Code, to apply for the Hopland Burial Benefit.

(b) “*Burial Benefit*” is defined as the benefit established in this Chapter to provide for the burial of Hopland Band tribal members and their spouses, parents, and children in the Cemetery.

(c) “*Cemetery*” is defined as the Hopland Tribal Cemetery within the Hopland Indian Reservation.

(d) “*Indigent*” is defined as lacking the resources or ability to pay for a burial or interment of a deceased person.

(e) “*Interment*” is defined as the permanent disposition of the remains of a deceased person by cremation, inurnment, entombment or burial.

(f) “*Memorial*” is defined as a monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use, tombstone, lot enclosure, or urn.

(g) “*Marker*” is defined as a memorial that is flush with the ground.

(h) “*Monument*” is defined as a tombstone or memorial that extends above the surface of the ground.

(i) “*Plot*” is defined as a space of sufficient size to accommodate one adult interment, and is at least five feet by ten feet.

(j) “*Tribes*” is defined as the Hopland Band of Pomo Indians.

(k) “*Tribal Court*” is defined as the Hopland Band Tribal Court.

Section 7-1.40 Application for Hopland Burial Benefit; Eligibility for Burial Assistance; Fees.

7-1.40.010 An application to receive the Hopland burial benefit must be submitted to the Tribal Council for its approval or denial. Documentation establishing eligibility must be provided to the Tribal Council within thirty “30) days of submitting an application to receive the Hopland burial benefit. The Tribal Council shall, in its sole discretion, approve or deny an application for the Hopland burial benefit and shall so inform the applicant in writing.

7-1.40.020 No application for a burial benefit may be approved by the Tribal Council unless the deceased person meets one of the following eligibility requirements:

- (A) The deceased person was a Hopland Tribal member;
- (B) The deceased person was the natural or adoptive child of a Hopland Tribal member;
- (C) The deceased person was the natural parent of a Hopland Tribal member, or the step-parent or adoptive parent Hopland Tribal member;
- (D) The deceased person was the spouse of a Hopland Tribal member;

7-1.40.030 The Hopland Tribal Council shall not impose a fee for the burial of Hopland Tribal members in the Hopland Tribal Cemetery.

7-1.40.040 The Hopland Tribal Council may, in its sole discretion, impose a standard fee on all non-tribal members for burial within the Hopland Tribal Cemetery where such non-tribal members meet the eligibility requirements within this Ordinance; *provided that* the Tribal Council may waive this burial fee if an eligible non-tribal member was indigent and had a demonstrated and substantial connection to the Tribe.

Section 7-1.50 Unauthorized Interment or Disposal.

7-1.50.010 Any burial, interment, entombment or disposal of deceased persons within the exterior boundaries of the Hopland Reservation must be done in accordance with the terms of this Chapter.

7-1.50.020 The unauthorized burial, interment, entombment or disposal of deceased persons within the exterior boundaries of the Hopland Reservation is prohibited.

7-1.50.030 Any person who buries, inters, entombs or disposes of a deceased person within the boundaries of the Hopland Indian Reservation without the Tribal Council's approval is subject to civil fines and damages in accordance with this Code.

Section 7-1.60 Civil Damages.

7-1.60.010 Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Tribal Council is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, including the costs of re-interment of the deceased person unlawfully interred in the Hopland Tribal Cemetery.

7-1.60.020 All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

7-1.60.030 Any person who is not a member of the Hopland Band who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

7-1.60.040 Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Section 7-1.70 Arbitration and Mediation.

7-1.70.010 The Tribal Council reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Chapter. The Tribal Council may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court in its sole discretion.

7-1.70.020 Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the Tribal Court, as well as with the Tribal Council. If the Tribal Council does not object, the Tribal Court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied within thirty (30) days.

Section 7-1.80 General Provisions

7-1.80.010 Severability. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

7-1.80.020 Sovereign Immunity. The Tribe's sovereign immunity shall not be waived or limited in any manner by this Chapter.

7-1.80.030 Effective Date, Amendment. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

History: Ordinance No. 07-16-07.

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CHAPTER 8-1 LAW AND ORDER ORDINANCE

Section 8-1.10 Construction, and Jurisdiction

8-1.10.010 Liberal Construction. This Chapter will be liberally construed to give full effect to the purposes for which it was enacted and shall be interpreted and construed to preserve the peace, safety, health and general welfare of the people of the Tribe and those on the Reservation. This Chapter is intended to ensure peace and order on the Reservation and promote the welfare of the Tribe and its members.

This Chapter is also intended to safeguard individual rights and community standards, and to ensure that all parties are treated fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act and by the traditions, customs and laws of the Tribe. This Chapter will provide an orderly procedure for resolving conflicts which reflects tribal customs and traditions as well as the prevailing community standards, and which affords all affected persons a fair, prompt, and impartial hearing. Finally, this Ordinance is intended to exert jurisdiction over all matters essential to the Tribe's self-determination and self-governance.

8-1.10.020 Jurisdiction. The Hopland Tribal Court shall have jurisdiction over all violations under this Ordinance. This Ordinance will be applicable to all persons and lands within the exterior boundaries of the Reservation and is limited only by the Tribe's Constitution and applicable federal law. This jurisdiction shall be concurrent with any valid jurisdiction by courts of the United States and the state of California.

Section 8-1.20 Definitions

- (a) "*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.
- (b) "*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.
- (c) "*Violation*" means a violation of tribal law as set forth in this Chapter.
- (d) "*Controlled substance*" means any drug or other substance, under the provisions of Chapter 13, Title 21, Section 802, "Controlled Substance" of the United States Code.
- (e) "*Damage*" means loss, injury, or deterioration to property causing it to decrease in strength, value, amount or quality.
- (f) "*Dangerous drug*" means any drug 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:

- (1) Caution: Federal law prohibits dispensing without a prescription; or

- (2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.
- (g) “*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.
 - (h) “*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.
 - (i) “*Deface*” means damage to monuments, buildings or other structures by changing the physical appearance.
 - (j) “*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.
 - (k) “*Elder*” means a person over the age of 55.
 - (l) “*Exclude*” means to ban or forbid a person from being present on the Hopland Reservation.
 - (m) “*Firearm*” means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion. Firearm does not mean a BB device.
 - (n) “*Tribal Council*” is the seven member committee established under Article 4 of the Tribe’s Constitution. The Tribal Council is the Tribe’s governing body.
 - (o) “*Financial loss*” means a loss of money or decrease in financial value.
 - (p) “*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.
 - (q) “*Motor Vehicle*” or “*Vehicle*” includes automobiles, motorcycles, ATVs, trucks, and all other forms of motorized transportation.
 - (r) “*Narcotic drug*” means any drug under the provision of Chapter 13, Title 21, Section 802, “*Narcotic Drug*” of the United States Code.
 - (s) “*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 an assignment or valid lease from the Tribe or the Owner. In cases of uncertainty, “*Owner*” shall mean the Tribe.
 - (t) “*Private Property*” means any property owned in fee, individual land where title is held in the name of the United States in trust for the individual (allotments), and for purposes of this Ordinance only Tribal Property leased from the Tribe or Northern Circle (housing) and Tribal Property issued to tribal members pursuant the Tribe’s Assignment Ordinance (assignments).
 - (u) “*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.
- (v) “*Reservation*” means all lands within the exterior boundaries of the Hopland Reservation, and all lands claimed by the Tribe to which the Tribe may establish title.
- (w) “*Recklessly*” means a person who acts carelessly, heedlessly, or is inattentive to the circumstances surrounding him or her.
- (x) “*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.
- (y) “*Tribal Court*” means the judiciary branch of the Tribe as set forth and provided for under the Tribe’s Constitution.
- (z) “*Tribal Property*” as used in this Ordinance means all property held by the United States government in trust for the Tribe and all land owned by the Tribe in fee, Tribal structures, buildings, facilities, dwellings and all personal property of the Tribe.
- (aa) “*Tribal Police Officer*” means a person designated by the Tribe to enforce this Ordinance and to act as a law enforcement officer for the Tribe.

Section 8-1.30 Offenses Against People and Animals

8-1.30.010 Assault or Aggravated Assault

- (A) A person commits Assault if he or she:
- (1) Knowingly or purposely causes bodily harm to another;
 - (2) Negligently causes bodily harm to another with a weapon;
 - (3) Knowingly or purposely makes physical contact of an insulting or provoking nature with an individual;
 - (4) Knowingly or purposely causes reasonable apprehension of bodily harm in another;
or
 - (5) Aids, assists, commands, or counsels another to commit Assault.
- (B) A person commits Aggravated Assault if he or she knowingly or purposely causes:
- (1) Serious bodily harm to another;
 - (6) Bodily harm to another with a weapon;
 - (7) Reasonable apprehension of serious bodily harm in another by use of a weapon;
 - (8) Bodily harm to tribal officials, tribal employees or law enforcement officers lawfully discharging an official duty; or

- (9) Aids, assists, commands, or counsels another to commit Aggravated Assault.

8-1.30.020 Violations Against Minors

(A) Contributing to the Delinquency of a Minor. A person commits Contributing to the Delinquency of a Minor when he or she purchases or gives:

- (1) alcoholic beverages or drugs for or to any person under the age of 21; or
- (2) cigarettes, marijuana, Dangerous Drug or Narcotic Drug for or to any person under the age of 18.

8-1.30.030 Cruelty to Animals and Animal at Large

(A) A person commits “Cruelty to Animals” if he or she:

- (1) Physically mistreats an animal either by abuse or failure to furnish minimum care, including but not limited to failure to seek appropriate medical care. Physical mistreatment of an animal shall include but is not limited to killing (except for permitted hunting), 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.

(B) A person commits “Animal at Large” if he or she:

- (1) Permits an animal, other than a domestic cat, to be at large. At Large means not under the physical control of the owner or keeper or not physically contained on the owner’s or keeper’s premises or motor vehicle.

Section 8-1.40 Violations Against Property

8-1.40.010 Damage or Destruction. A person commits Damage or Destruction if he or she, without the consent of the owner:

- (A) Damages or destroys the property of the owner;
- (B) Tampers with property of the owner and causes financial loss or substantial inconvenience to the owner or a third person;
- (C) Makes markings, including, inscriptions, slogans, drawings, or painting on the property of the owner;
- (D) Alters, defaces or damages in anyway tribally owned 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
- (E) Aids, assists, commands, or counsels another to commit Malicious Mischief.

8-1.40.020 Trespass. A person commits Trespass if he or she enters or remains on tribal or private property of another without consent and:

- (A) Had notice that the entry was forbidden; or
- (B) Was ordered to depart after entry and failed to do so; or
- (C) Has been excluded or debarred from the Reservation or specific a location(s) on the Reservation by the Tribe, the Gaming Commission, or the Tribal Court.
- (D) Notice or an order may be given by:
 - (1) Written or verbal communication given to the intruder by a Tribal Official, Tribal Police Officer, the owner of the property or a person authorized to act on behalf of the owner;
 - (2) Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
 - (3) Fences, barricades or other devices obviously designed to enclose the property and to exclude all potential intruders; or
 - (4) Written notice of exclusion issued by the Tribal Court, Exclusion Hearing Panel or Tribal Council; or
 - (5) Written Tribal, State or federal protective order(s) or restraining order(s) preventing a person from entering the Reservation or buildings within the Reservation.

8-1.40.030 Arson. A person commits 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.

Section 8-1.50 Violations Against the Peace

8-1.50.010 Disorderly Conduct. A person commits Disorderly Conduct if he or she:

- (A) Fights with another person within the boundaries of the Reservation;
- (B) Creates a nuisance by any excessive noise, or other behavior, or allows or permits the creation of a nuisance on property owned, leased, occupied or otherwise controlled by such person, except for sanctioned cultural events;
- (C) Not being lawfully authorized to do so, displays a dangerous weapon in a manner calculated to alarm;
- (D) Abuses or threatens a person in an obviously offensive manner;

(E) Drinks an alcoholic beverage on any tribal street, alley or sidewalk, or on any other Tribal Property (unless otherwise authorized by the Tribe), or upon Private Property that he or she has no right to occupy;

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

(G) 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.

8-1.50.020 Carrying a Prohibited Weapon. A person commits Carrying a Prohibited Weapon if: he or she:

(A) Carries on or about his or her person a dangerous weapon. For this subsection only a dangerous weapon shall not include a firearm that is registered with the State or the Tribe. This subsection shall not apply to Tribal Police Officers or any other state, federal or tribal law enforcement officer.

(B) Any Tribal Police Officer or other tribally designated security or law enforcement officer may, upon probable cause, confiscate a dangerous weapon from any person who violates this subsection.

8-1.50.030 Reckless Discharge of a Firearm. A person commits Reckless Discharge of a Firearm when he or she:

(A) Recklessly discharges a firearm within a residential or business area;

(B) Willfully discharges a firearm at a dwelling, occupied building or occupied motor vehicle; or

(C) Discharges any firearm from or at roads or highways located within the Reservation.

(D) Section 8-1.50.030 does not apply to Tribal Police Officers acting within the scope of authority granted in Title 8, Chapter 8.

8-1.50.040 Loitering and Curfew

(A) A person commits Loitering if:

(1) He or she remains on Tribal Property after notification by a Tribal Police Officer to leave the area.

(B) A person commits violation of Curfew if:

(1) He or she is a minor (under the age of 18 years old) who remains on Tribal Property between the hours of 10:00 p.m. and 6:00 a.m.;

- (2) He or she is a parent, guardian or custodian of a minor and knowingly permits or by insufficient control allows the minor to remain on Tribal Property between 10:00 p.m. and 6:00 a.m.; or
- (3) He or she is a parent of a minor and knowingly fails to respond within two hours of notification by Tribal Police Officer, law enforcement official, or Tribal Official to take custody of a minor taken into protective care for violation of this subsection.

8-1.50.050 Violations Against the Tribal Government

(A) **Interfering with Lawful Detention or Resisting Detention.** A person commits Interfering with Lawful Detention or Resisting Detention if by force, violence or other means, he or she:

- (1) Interferes, obstructs or resists any tribal official, Tribal Police Officer or other law enforcement officer in the performance of their official duties;
- (2) Flees from any Tribal Police Officer or other law enforcement officer who is attempting to lawfully restrain him or her; or
- (3) Assists another to avoid a lawful detention or harbors a fugitive.

Section 8-1.60 Drug and Alcohol Violations

8-1.60.010 Chemical Intoxication. A person commits a violation of Chemical Intoxication if he or she:

(A) 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:

- (1) contrary to directions for use, cautions, or warnings appearing on a label of a container of the substance; and designed to: affect the person's central nervous system; create or induce a condition of intoxication, hallucination, or elation; or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.
- (2) Sells, offers for sale, delivers or gives to any person under the age of 18 years any volatile chemical, abusable glue or aerosol paint.

8-1.60.020 Illegal Drugs.

(A) A person commits a violation 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.

8-1.60.030 Intoxication on Tribal Property.

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

(B) 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.

8-1.60.040 Intoxication While Operating a Motorized Vehicle

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

- (1) When his or her driving is impaired; and
- (2) Under the influence of any alcohol, Controlled Substance, Narcotic or Dangerous Drug, or
- (3) Any person who refuses to comply with the authorized breath test administration shall be subject to an additional fine in addition to any other orders of the Tribal Court.

Section 8-1.70 Violations Against Health and Safety

8-1.70.010 Dumping.

(A) A person commits Dumping when he or she dumps refuse, solid waste material or unwanted items anywhere other than in an approved location or authorized landfill.

8-1.70.020 Open Burning of Solid Waste.

(A) A person commits Open Burning of Solid Waste when he or she fails to obtain an open burning permit from either the Hopland Tribal Police Department or the Hopland EPA.

Section 8-1.80 Traffic Violations

8-1.80.010 Unlawful Operation of Motor Vehicle

(A) A person commits Unlawful Operation of a Motor Vehicle when he or she operates a vehicle:

- (1) on any street or road within the Reservation in willful disregard for the safety of persons or property; or
- (2) in excess of 25 miles per hour on any paved road within the Reservation unless otherwise posted; or

- (3) in excess of 10 miles per hour on any unpaved road within the Reservation unless otherwise posted; or
 - (4) in excess of any other posted speed limit on any road on the Reservation; or
 - (5) in disregard of any posted road or traffic sign on any road on the Reservation; or
 - (6) without wearing a seatbelt; or
 - (7) without a valid state driver's license or vehicle registration; or
 - (8) without proof of insurance; or
 - (9) with a child who is not restrained in a child safety seat; or
 - (10) without factory installed, operational lighting or equipment.
- (B) A person commits Unlawful Operation of a Motor Vehicle when:
- (1) He or she operates a motorcycle or ATV without a helmet or spark arrester; or
 - (2) He or she refuses to provide his or her driver's license or proof of insurance at the request of a Tribal Police Officer.

8-1.80.020 Unlawful Parking or Unlawful Storage of an Abandoned Motor Vehicle

- (A) A person commits 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;
 - (2) a no-parking area as designated by a red or yellow painted curb or no parking sign;
 - (3) areas designated solely for Tribal Elder parking when he or she is not a Tribal Elder;
 - (4) 20 feet of a fire hydrant;
 - (5) a parking area designated for physically disabled persons without a valid State of California or Tribal physically disabled parking permit;
 - (6) areas designated solely for Tribal Council parking when he or she is not a Tribal Council member; or
 - (7) areas designated solely for casino employee of the month parking when he or she is not the casino employee of the month

- (B) A person commits Unlawful Storage of Abandoned Vehicle when he or she stores more than two nonoperational vehicles on Tribal Property or Private Property.

Section 8-1.90 Enforcement

8-1.90.010 Tribal Police Duties. It shall be the duty of every Tribal Police Officer to enforce this Ordinance as specified in the Qualification, Training and Performance Standard for Police Officers Title 8 Section 8.03.020.

8-1.90.020 Tribal Police Authority. In fulfilling his or her duties and responsibilities under this Ordinance, Tribal Police Officers are vested with the authority contained in the Hopland Tribal Police Ordinance as codified in Title 8 Section 4 and the authority contained in Ordinance No. 04.12.22 Establishing the Hopland Police Department and Qualification, Training and Performance Standards for Police Officers as amended and codified in Title 8 Chapters 1, 2, 3, 4, 5, and 6.

8-1.90.030 Citations. A Tribal Police Officer has the authority to issue citations for violations of this Ordinance committed in their presence or when the Tribal Police Officer has reasonable cause to believe a violation has been committed. Such citation shall be issued no later than 30 days from when the violation occurred.

8-1.90.040 Identification. A person who is reasonably suspected of committing a violation of this Ordinance and is stopped by a Tribal Police Officer is required to identify himself or herself by providing his or her name, address, and date of birth. If requested by the Tribal Police 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 Tribal Police Officer may detain the person for a reasonable period of time in order to identify the person and issue a citation.

8-1.90.050 Notice Requirement

- (A) The citation shall include the following statements:
- (1) the violation is an offense for which imprisonment is not an available sanction;
 - (2) the subsection of the Ordinance that was violated along with a statement briefly describing the conduct of the person which lead to the violation;
 - (3) the monetary penalty imposed for the violation and that the person may be noticed by separate letter that the penalty amount has increased after determination that the person has previous violations;
 - (4) information about how the person may contest the citation;
 - (5) 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

- (6) 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.

8-1.90.060 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 violation thereby enhancing the penalty for the recent violation. 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.

8-1.90.070 Service of the Citation.

- (A) The citation may be served on the person in the following manner;
 - (1) Personal service; or
 - (2) 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 Tribal Police Officer.
- (B) 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.
- (C) 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.
- (D) 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 8-1.100 Hearing Procedures

8-1.100.010 Response Options.

- (A) A person shall respond to the citation in one of the following ways;
 - (1) 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 if served personally or sixty (60) days from the date the citation is served by mail; or

- (2) 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.

8-1.100.020 Default Judgment and Burden of Proof

- (A) Failure to Respond and Default Judgment.
 - (1) The Tribal Court shall enter a default judgment and impose additional sanctions against a person who is served with a citation; and
 - (2) fails to pay the fine amount or request a hearing; or
 - (3) fails to appear at a hearing that he or she has requested.
- (B) Burden of Proof.
 - (1) The burden of proof shall be on the Tribe, however, the citation and any additional reports submitted by the Tribal Police 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.

8-1.100.030 Hearing.

- (A) 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 (“Defendant”) and the Tribal Police 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 Tribal Police Department shall include as an attachment a copy of the Defendant’s completed request for hearing form.
- (B) If the Tribal Police Officer submits an additional written report concerning the citation to the Tribal Court for consideration at the hearing, then the Police Department, at least 15 days prior to the hearing, shall make a copy of this report available for inspection and copy upon request.
- (C) 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 filed. 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.
- (D) All hearings shall be open to the public unless the Tribal Court finds good cause for the hearing to be closed. Examples of good cause include, but are not limited to,

a party's request that the hearing be closed. 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. Consistent with the Rule of Court Procedure and Evidence 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.

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

8-1.100.040 Tribal Court Decision

(A) 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) days following completion of the hearing.

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

- (1) Issue an injunction, by ordering the Defendant to temporarily or permanently refrain from conducting the acts or actions that gave rise to the citation.
- (2) Impose fines in an amount not to exceed the maximum provided in the Judgment Schedule adopted by the Tribal 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:
 - (3) the duration of the violation;
 - (4) the frequency, recurrence, and number of violations, related or unrelated, by the same violator;
 - (5) the seriousness of the violation;
 - (6) the economic impact of the violation on the community; and
 - (7) such other factors as justice may require.
- (8) 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.

- (9) Order restitution to be paid to those affected by the violation.
- (10) Order community service in addition to or in lieu of a fine.
- (11) Such community service shall, if possible, be related to the offense.
- (12) Issue such other order as may be deemed fair and just by the Tribal Court including a public or private apology.
- (C) If the Tribal Court Judge finds that a request for a hearing was 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.
- (D) 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 C above. Late payment charges shall accrue and be payable in the amount and by the terms specified in the Judgment Schedule.
- (E) If the Tribal Court Judge determines the citation should be dismissed, he or she shall issue a decision dismissing the citation.
- (F) The Defendant and the Tribe shall be served with a copy of the decision within seven (7) calendar days of its issuance.
- (G) The decision of the Tribal Court Judge shall be final upon service on the Defendant and not subject to further review.

Section 8-1.110 Penalties

8-1.110.010 General Penalty Provisions.

- (A) 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 judgment schedule adopted by the Tribal Council in effect on the date the violation occurred;
- (B) 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, banishment, debarment or traditional sanctions;
- (C) The Tribal Court has the authority to forfeit property, suspend or cancel a license or permit, or cite for contempt.

8-1.110.020 Fines Deferred.

- (A) 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:

- (1) The person has not committed any previous violations of this Ordinance; and
- (2) The person does not commit any other violations of this Ordinance during the time the penalty is deferred or suspended; and
- (3) The person does not commit any infractions, violations or offenses in any other jurisdictions during the time the penalty is deferred or suspended; and
- (4) The person complies with all Tribal Court orders concerning the violation to the best of his or her ability.

8-1.110.030 Community Service

- (A) The Tribal Court, at its discretion, may order community service in addition to or in place of a money fine. The Tribal Court will determine if the person is a suitable candidate for community service.
- (B) A person approved for community service by the Tribal Court shall be referred to as a Community Service Worker.
- (C) The Tribal Court, or designee, will;
 - (1) keep a log of both services requested and performed;
 - (2) provide a form for verification of the Community Service Worker's hours of service.
- (D) Community Service is limited to service
 - (1) at Tribal Property; or
 - (2) for a Tribal Agency; or
 - (3) at the primary residence of a tribal elder.
- (E) 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.
- (F) 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.

8-1.110.040 Referral for Treatment

- (A) 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.

(B) 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.

(C) 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.

(D) 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.

8-1.110.050 Enforcement of Civil Fines

(A) In any case where a person has been found to have committed a violation 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.

(B) 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 following:

- (1) Refer the civil fine to a collection agency or other collection institution;
- (2) Order an on-Reservation employer to garnish up to twenty five (25%) percent of violator's wages;
- (3) Order the Tribal Administrator, or other appropriate tribal official, garnish up to one-hundred (100%) percent of the violators tribal per capita distribution, elder assistance payment, or revenue sharing distribution; or
- (4) Upon written request from the Tribe, issue a garnishment order against an off-Reservation employer or any other entity that issues the violator wages or money; or
- (5) Exclude the person from the Reservation generally, or specific areas within the Reservation until such time the fine has been paid.

Section 8-1.120 General Provisions

8-1.120.010 Sovereign Immunity. The sovereign immunity of the Tribe shall extend to its Tribal Police 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 Tribal Police Officers, or any of the employees of the Tribe or any tribal law enforcement officer acting pursuant to this Ordinance.

8-1.120.020 Severability. If any part of this Ordinance is found invalid, the reminder of the Ordinance should not be affected and shall continue in full force and effect. The provisions of this Ordinance are severable.

8-1.120.030 Prior Inconsistent Codes and Ordinances Repealed. All Ordinances or provisions of any previously enacted ordinances of the Tribe, except those Ordinances that require approval of the General Membership, that conflict in any way with the provisions of this Ordinance are hereby repealed.

History: Ordinance No. 12-03-08

CHAPTER 8-2**CLASSIFICATION OF VIOLATIONS AND JUDGMENTS**

8-2.10.010 The following civil judgments apply to each violation:

- (A) Class C Violation civil judgment not to exceed \$250.
- (B) Class B Violation civil judgment not to exceed \$2,000.
- (C) Class A Violation civil judgment not to exceed \$5,000.

8-2.10.020 Any person who repeatedly commits a Violation will be subject to the following penalties:

- (A) A person committing a Class C Violation three (3) times may be subject to a Class B civil judgment;
- (B) A person committing a Class C Violation four (4) or more times may be subject to a Class A civil judgment;
- (C) A person committing a Class B Violation three (3) or more times may be subject to a Class A civil judgment;
- (D) A person committing a Class A Violation three (3) or more times may be subject exclusion.

OFFENSES AGAINST PEOPLE AND ANIMALS

Assault or Aggravated Assault.....	Class A Violation
Violations Against Minors	Class B Violation
Cruelty to Animals and Animal at Large	Class C Violation

VIOLATIONS AGAINST PROPERTY

Damage or Destruction	
if amount of financial loss is less than \$20	Class C Violation
if amount of financial loss is more than \$20 but less than \$250	Class B Violation
if amount of financial loss is more than \$250	Class A Violation

Trespass

A violation under this subsection is a Class B Violation, unless it is committed in a private dwelling, a tribal building or unless the trespasser carries a dangerous weapon on or about his person during the commission of the violation, in which event it is a Class A Violation.

Arson.....	Class A Violation
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VIOLATIONS AGAINST THE PEACE

Disorderly Conduct	Class B Violation
Carrying a Prohibited Weapon.....	Class B Violation
Reckless Discharge of a Firearm	Class B Violation

Loitering and Curfew	Class C Violation
Violations Against the Tribal Government.....	Class B Violation

DRUG AND ALCOHOL VIOLATIONS

Chemical Intoxication.....	Class B Violation
Illegal Drugs.....	Class B Violation
Intoxication on Tribal Property.....	Class B Violation
Intoxication While Operating a Motorized Vehicle.....	Class A Violation

VIOLATIONS AGAINST HEALTH AND SAFETY

Dumping	Class C Violation
Open Burning of Solid Waste	Class C Violation

TRAFFIC VIOLATIONS

Unlawful Operation of Motor Vehicle.....	Class C Violation
Unlawful Parking or Unlawful Storage of an Abandoned Motor Vehicle	Class C Violation

CHAPTER 8-3 TRIBAL POLICE EMERGENCY SERVICES COMPACT AUTHORITY
[COMPACT SECTION 10.4]

Section 8-3.10 Definitions.

- (a) “*Gaming Facility*.” As used in this Chapter, “Gaming Facility” or “Facility” means any building in which Class III gaming activities or gaming operations occur pursuant to the Compact, or in which the business records, receipts, or other funds of the Compacted Class III gaming operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.

Section 8-3.20 Hopland Tribal Police Department.

8-3.20.010 Emergency Service Accessibility. The Hopland Tribal Police Department is authorized and directed to make reasonable provisions for adequate emergency fire, medical, and related relief and disaster services for patrons and employees of the Gaming Facility, provided, however, that all contracts and intergovernmental agreements shall require prior approval by the Tribal Council.

8-3.20.020 Reporting to the Tribal Council. The Tribal Police Department shall, not less frequently than once per month, report in writing to the Tribal Council on the steps it has taken to fulfill its responsibilities hereunder, the date, time, nature, and outcome of each incident in which emergency fire, medical, or related relief and disaster services were summoned for or provided to patrons or employees of the Tribe’s Gaming Facility, and any recommendations for improvements to the Tribe’s ability to provide such services.

Section 8-3.30 General Provisions.No Submission to Jurisdiction, Waiver of Sovereign Immunity or Impairment of Sovereignty. Nothing in this Ordinance shall be deemed to submit the Tribe to the jurisdiction of the State of California or any other governmental entity, or to waive the sovereign immunity of the Tribe or otherwise impair its sovereignty.

8-3.30.020 Effective Immediately. This Ordinance shall be effective immediately.

History: Ordinance No. 8-03-2000-C

Section 8-4.10 Findings and Declarations.

8-4.10.010 The Tribal Council finds and declares as follows:

- (A) The Tribe has establish a young and growing community on its reservation in Hopland, California, but does not have the resources or trained personnel to effectively regulate the ownership and control of domestic dogs and other animals on the Reservation.
- (B) The presence of unlicensed and uncontrolled animals on the reservation could pose a danger to the health and well-being of adults and children who live on the reservation as well people living in the areas surrounding the reservation.
- (C) Mendocino County has a department of animal control and trained animal control and health officers who are properly equipped and trained to enforce animal control and public health laws pertaining to animals.
- (D) The County currently provides animal control services to the unincorporated areas immediately adjacent to the Reservation and can easily and effectively provide those services to the Reservation.
- (E) It will promote the peace, comfort and general welfare of tribal members and residents of the Reservation and surrounding areas for the County's animal control laws, including it rules respecting the licensing, vaccination and control of dogs to apply to tribal members on the reservation and for those laws to be enforced by county officials and prosecuted in county courts.
- (F) It is the intent of the Tribal Council that the provisions of the Mendocino County Code ("MCC") adopted herein shall be enforceable on the Reservation to the same extent that they are enforceable in the unincorporated areas of the county.

Section 8-4.20 County Ordinances Enforceable on Reservation.

8-4.20.010 The following provisions of Chapter 10.04 of the Mendocino County Code, entitled, Department of Animal Control, are hereby adopted by reference and made applicable to offenses committed on the Reservation by tribal members and non-members alike:

10.04.01.0, 10.04.020, 10.04.030, 10.04.040, 10.04.050, 10.04.060, 10.08.010, 10.08.020, 10.08.030, 10.08.040, 10.08.050, 10.12.01.0, 10.12.020, 10.12.030, 10.12.040, 10.12.050, 10.12.060, 10.16.010, 10.16.020, 10.16.030, 10.16.040, 10.16.050, 10.16.060, 10.20.010, 10.20.020, 10.20.030, 1.0.20.040, 10.20.040, 10.20.050, 10.20.060, 10.24.010, 10.24.020, 10.24.030, 10.24.040, 10.24.050, 10.24.060, 10.24.070, 10.24.080, 10.24.090(A), 10.24.090(b). (A copy of these sections of the MCC are attached hereto as Exhibit "A" and are incorporated herein by reference.)

(A) Amendments to these sections of the County Code are hereby adopted by reference and made applicable to offenses committed by members and non-members alike, if the Tribal Council within fifteen (15) calendar days of receiving written notice of the amendment by registered or certified mail, fails to give written notice to the County by registered or certified mail addressed to the Director of the Department of Animal Control that an amendment shall not apply on the Reservation.

8-4.20.020 County sheriff, animal control and health department officials are hereby authorized to impound animals, issue citations and make arrests in the enforcement of the county code sections adopted by reference in subdivisions a. and b. of this Section 2. All citations, arrest warrants, criminal complaints and other documents shall reference the appropriate sections of the county code and need not reference the provisions of this Ordinance.

Section 8-4.30 Enforcement in County Courts.

8-4.30.010 The County courts are hereby declared to be tribal courts for the purpose of trying and enforcing violations of the County code sections adopted by reference in this Chapter. All proceedings involving violations of this Chapter shall be conducted in the same manner as any other proceedings in said courts and need not reference this Chapter. All records of such proceedings shall be prepared and maintained in the same manner as other records pertaining to similar violations under said county code sections.

8-4.30.020 All administrative hearings and other proceedings requiring administrative adjudication under the county code sections adopted herein shall be conducted in the same manner and before the same county officials, divisions or departments as similar proceedings not conducted under this ordinance.

History: Ordinance No. 94-05-15

Section 8-5.10 Definitions.

- (a) “*Chief of Police*” means the Chief of Police of the Hopland Band of Pomo Indians.
- (b) “*Criminal Offense*” means any conduct, of which a person is convicted, that would result in possible incarceration or imprisonment under the laws of the United States, any State, any federally recognized Indian tribe, or the Hopland Band of Pomo Indians.
- (c) “*Reservation*” shall mean the Hopland Indian Reservation or any land owned by the United States of America in trust for the Hopland Band of Pomo Indians.
- (d) “*Sex Offender*” shall mean any person who has been convicted in any court, including, but not limited to, the Hopland Tribal Court, any court of the United States, any state court, or any court of any federally recognized Indian Tribe of committing a sexual offense, or who is required under any laws of the United States, any state, or any federally recognized Indian tribe, including the Hopland Band of Pomo Indians, to register for having been convicted of a sexual offense.
- (e) “*Sexual Offense*” shall mean, but not be limited to, any of the following criminal offenses as defined by the laws of the United States, any state, any federally recognized Indian Tribe, or the Hopland Band of Pomo Indians: kidnaping, spousal rape, oral copulation, sodomy, rape by an instrument, sexual intercourse with a person under 18 years of age, anal rape, anal rape by an instrument, enticement of an unmarried female under 18 for purposes of prostitution, procuring a female for elicit intercourse by false pretense, unlawful sexual intercourse, purchasing a person for purposes of prostitution, sale of person for immoral purposes, pimping, procurement of a child under the age of 16 for lewd or lascivious acts, sexual assault, incest, sexual assault of an animal, any lewd or lascivious act, sexual abuse, any conduct that is defined by any federal, state or tribal law as a sexual offense or any other conduct which a court finds at the time of conviction or sentencing that the person found guilty of committing the offense, committed the offense as a result of sexual compulsion or for the purposes of sexual gratification.
- (f) “*Tribe*” shall mean the Hopland Band of Pomo Indians.

Section 8-5.20 Registration of Sex Offenders. Every person who is a sex offender, shall, for the rest of his or her life, while residing in, or if he or she has no residence, while located within the Reservation, register with the Chief of Police within: (1) 24 hours of entering, establishing or reestablishing a residence, residences or temporary domicile for 30 days or more on the Reservation; (2) immediately if the sex offender is currently residing or temporarily domiciled on the Reservation for 30 days or more; (3) within 24 hours of release from any jail, prison, rehabilitation facility or confinement of any kind, if, at the time of conviction, the sex offender was residing or temporarily domiciled on the Reservation; and (4) within 24 hours of the sentencing date, if the sex offender is not sentenced to serve a term of confinement, and at the time of sentence, the sexual offender was residing or was temporarily domiciled on the Reservation.

Section 8-5.30 Information to be Provided by Sex Offender. A sex offender required to register under this Chapter shall sign and date a form providing the Chief of Police with the

following information when registering: (1) the offender's full name; (2) the offender's known aliases; (3) the offender's gender; (4) the offender's race; (5) the offender's physical description; (6) a photograph of the offender; (7) the offender's date of birth; (8) the crimes resulting in registration under this Chapter; (9) the offender's address, including temporary addresses where the offender may stay overnight; (10) the offender's social security number; (11) the offender's place of employment; (12) description and license plate number of the vehicles the offender is known to drive; (13) type of victim targeted by the offender; (14) relevant parole or probation conditions such as prohibiting contact with children; (15) dates of crime(s) and types of crime(s) resulting in classification under this Chapter; (16) date of release from confinement; and (17) the names and addresses of other agencies with which the offender has, or is required to, register.

Section 8-5.40 Changes in Information. The Sexual Offender shall keep all required information current at all times and shall submit any changes in writing in person to the Chief of Police. If any person required to register under this Chapter changes their address following such registration, the offender must present a written notice of change of address and their new address in person to the Chief of Police within ten (10) ys prior to establishing a new residence or domicile.

Section 8-5.50 Notification to the Community.

8-5.50.010 The Chief of Police shall maintain a Sex Offender profile and notification database. The database shall include all registration information required by this Chapter and the Sex Offender's date of release from confinement, or if the Sex Offender is sentenced to probation without jail time, the date of sentencing.

8-5.50.020 Within ten (10) days of receiving registration information, the Chief of Police shall distribute the following registration information to the victim, Tribal Council, Tribal Community Health Representative, Director of the Tribal Department of Social Services, and all other agencies, organizations, or members of the public who are in a location, or in close proximity to, a location where the sex offender lives, is employed, visits, or is likely to visit on a regular basis: (1) the offender's full name; (2) the offender's known aliases; (3) the offender's gender; (4) the offender's race; (5) the offender's physical description; (6) a photograph of the offender; (7) the offender's date of birth; (8) the crimes resulting in registration under this Chapter; (9) the offender's address, which has been verified by the Chief of Police; (10) description and license plate number of the vehicles the offender is known to drive; (11) type of victim targeted by the offender; (12) relevant parole or probation conditions such as prohibiting contact with children; (13) dates of crime(s) and types of crime(s) resulting in classification under this Chapter; (14) date of release from confinement; and (15) the date and place of conviction.

8-5.50.030 If the Chief of Police discloses information pursuant to this Chapter, it shall include with a disclosure, a statement that the purpose of the release of the information is to allow members of the public and their children to protect themselves from sex offenders.

8-5.50.040 The Chief of Police shall also personally notify any person that the Chief of Police reasonably suspects may come into contact with the sex offender. For purposes of this subsection, reasonably suspects means that it is objectively reasonable for the Chief of Police

to entertain suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that the sex offender may come into contact with said person and that said person is, or may be, exposed to a risk of becoming a victim of a sex offense committed by the sex offender.

8-5.50.050 The Chief of Police shall register all sex offenders' convictions and warrants into the National Crime Information Center Database.

8-5.50.060 All employees of the Tribe's Police Department carrying out the provisions of this Chapter shall be acting in the official capacity as an authorized law enforcement agent of the Tribe. As such, any employee of the Tribe carrying out the duties under this Chapter shall be immune from liability for good faith conduct under this Chapter.

Section 8-5.60 Penalties. Any sex offender who fails to register as required by this Chapter shall be guilty of a misdemeanor and subject to a maximum penalty of no less than one hundred eighty (180) days, and no more than three hundred sixty-five (365) days for each offense and a fine up to no more than Five Thousand dollars (\$5,000.00) or both. However, if the person, who fails to register as required by this Chapter is not subject to the criminal jurisdiction of the Tribe, then the person shall be guilty of a civil penalty, punishable by a civil fine in an amount not to exceed Five Thousand Dollars (\$5,000.00) and subject to the permanent exclusion of the person from the Reservation. In addition, the sentencing court may impose any additional penalties or remedies or order any equitable relief it deems necessary in accordance with applicable law.

Section 8-5.70 Coordination with other Law Enforcement Agencies. Based on the information that has come to his or her attention through registration or other means, the Chief of Police shall, within ten (10) days from the date of acquiring said information, notify the Mendocino County Sheriff's Department, Child Protective Services, and California Department of Justice of the Sex Offender's Registration with the Tribe under this Chapter and confirm with these County and State agencies that the Sex Offender has registered with these agencies as required by California Penal Code §290. The Chief of Police shall maintain records of those persons, public and private educational institutions, law enforcement agencies, public and private organizations, and persons who have requested information regarding any sex offenders for a minimum of five years.

Section 8-5.80 General Provisions

8-5.80.010 Severability. In the event that any provision of this Chapter, or any amendment made by this Chapter is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Chapter and amendments made by this Chapter shall continue in full force and effect.

8-5.80.020 Effective Date. This Ordinance shall take effect immediately upon its passage.

History: Ordinance No. 07-05-20D

CHAPTER 8-6 EXCLUSIONS

Section 8-6.10 Exclusion of Persons from the Reservation.

8-6.10.010 It is unlawful and constitutes a violation of this Chapter for any person to enter or remain upon any portion of the Hopland Indian Reservation (“Reservation”) pursuant to the provisions of this Ordinance if they have been personally served with a final order excluding them from the Reservation.

8-6.10.020 It is unlawful and constitutes a violation of this Chapter for any lessee or assignee of Tribal trust land or owner or tenant of housing located within the Reservation to allow a person excluded from the Reservation under this Ordinance to enter, occupy or remain upon or within a home, rental unit, or land leased or assignment to them after notice of exclusion has been given as provided in this Chapter.

Section 8-6.20 Order of Exclusion, Grounds. A person may be excluded from the Reservation for a specified period of time or permanently. A person may be excluded from the Reservation on the following grounds:

8-6.20.010 Occupation of land within the Reservation without the consent of the United States of America or the Tribe.

8-6.20.020 Engaging in conduct that constitutes a threat to the peace and quiet or personal safety of persons within the Reservation or constitutes an unreasonable risk of injury or damage to or loss of property located on the Reservation. Such conduct includes, but is not limited to:

- (A) Homicide
- (B) Assault
- (C) Battery
- (D) Brandishing of Weapons.
- (E) Making threats of violence.
- (F) Reckless driving.
- (G) Intoxication which causes the person to be a danger to him/herself or to others.
- (H) Sale of illegal drugs.
- (I) Disturbing the Peace.
- (J) Lewd behavior in public.
- (K) Public nudity.

- (L) Robbery.
- (M) Theft.
- (N) Embezzlement from the Tribe or the Casino.
- (O) Damaging any cultural site.
- (P) Damaging, disrupting, or destroying any grave site.
- (Q) Discharging pollutants or toxic waste.
- (R) Vandalism.
- (S) Dumping or disposing of litter, garbage, rubbish, refuse or solid wastes on tribal trust lands.
- (T) Remaining in possession of Reservation land after the expiration of a lease or tribal land assignment or any other trespass on Tribal land.
- (U) Violating any Order of Exclusion issued under this Chapter.
- (V) Committing any act that constitutes a felony under federal, tribal or state law.
- (W) Conduct for which the Gaming Commission has issued an order excluding a person from the Hopland Sho-Ka-Wah Casino.

Section 8-6.30 Who May Issue Orders of Exclusion. Orders of Exclusions may be issued at the direction of the Tribal Council, pursuant to Section 8-6.40.010, or the Tribe's Hearing Panel ("Hearing Panel"), pursuant to Section 8-6.40.040, in accordance with the procedure provided for in Section 8-6.40.

Section 8-6.40 Order of Exclusion, Procedure. The Tribal Council shall issue orders of exclusion under Section 8-6.20, using the following procedure:

8-6.40.010 Notice of Violation. Whenever, by majority vote of the Tribal Council on a motion to exclude, the Tribal Council finds that a person should be excluded from the Reservation for any of the reasons stated in Section 8-6.20, the Tribal Council shall instruct the Tribal Administrator to issue a Notice of Violation to that person ("defendant") in the form and containing the information set forth in Form 0.1 attached hereto and incorporated herein. Any such Notice of Violation shall include notice of a hearing to be held on the issue of exclusion of the defendant. A hearing on the issue of exclusion shall take place no fewer than five days and no more than thirty days from the date of the issuance of the Notice of Violation.

8-6.40.020 Service. The Notice of Violation shall be personally served. Any person over the age of 18 may serve the notice by handing it to the defendant. Thereafter, the person

serving the notice shall complete a certification of personal service on a form approved by the Tribal Council for that purpose and shall file it with the Hearing Panel prior to the hearing.

8-6.40.030 Temporary Order of Exclusion. Where the Tribal Council or any Police Officer has reason to believe that a person's conduct presents an immediate threat of harm to persons or property within the Reservation, the Tribal Council may issue a Temporary Order of Exclusion ("Temporary Order") provided however, notwithstanding any other provision of this Chapter to the contrary, a Police Officer will only have authority to issue Temporary Orders of Exclusion to non-tribal members. Such an order shall be for a period of no longer than 30 days, pending a hearing before the Hearing Panel. If no hearing is held within the period of the Temporary Order, the Temporary Order shall expire.

8-6.40.040 Hearing Panel. The Hearing Panel for hearings related to Orders of Exclusion shall be made up of. 1) the Tribal Administrator; 2) a disinterested impartial person selected by the Tribal Council; and 3) a person selected by the person who is the subject of the exclusion order ("defendant"). Neither the defendant, nor any member of defendant's immediate family may be selected for the Hearing Panel. The Tribal Council may not select a member of the defendant's immediate family as its representative on the Hearing Panel. if the defendant fails to select a person to serve on the Hearing Panel at least 48 hours before the time of the hearing, the third member of the panel shall be selected by the other two members of the Hearing Panel.

8-6.40.050 Conduct of Hearing. All hearings related to Orders of Exclusion shall be conducted at a properly notice hearing before the Hearing Panel. All actions shall be taken based on an affirmative vote of the majority of the members of the Hearing Panel. The defendant shall have the right to appear and be represented by a person of his or her choice. The hearing shall be conducted informally and in confidence, excluding the general public, except for witnesses called by the defendant or the defendant's representative, or the Tribal Council or its representative. All proceedings shall be recorded on audio tape or other audio recording process. The representative of the Tribal Council shall first present the reasons why the defendant should be excluded from the Reservation and all the testimony and the evidence supporting the argument for exclusion that the representative of the Tribal Council believes to be relevant.

(C) The defendant or his/her representative shall then present to the Hearing Panel the reasons why the defendant should not be excluded from the Reservation and all the testimony and evidence supporting the argument against exclusion that the defendant believes to be relevant. Before the defendant will be permitted to present any evidence or argument to the Hearing Panel, he/she shall be required to provide the Hearing Panel with his/her current address.

(D) If the defendant fails to appear at the hearing, the Hearing Panel shall make its determination on the basis of the evidence and argument presented by the representative of the Tribal Council.

(E) After the representative of the Tribal Council and the defendant have presented their cases, the Hearing Panel shall deliberate in closed session. It shall

announce its decision with the defendant present (unless the defendant fails to appear for the hearing) and, if the Hearing Panel determines that the defendant should be excluded from the Reservation, the Hearing Panel shall serve him/her with an Order of Exclusion in the form and containing the statements set forth in Form 0.2, which is attached hereto and incorporated herein. In the event that the defendant fails to appear, the representative of the Tribal Council shall cause the Order to be mailed to the defendant, if the representative has a mailing address for the defendant. If not, the representative of the Tribal Council shall be required to give only the notice provided in Section 8.605. If the Panel finds that the defendant should not be excluded from the Reservation, it shall discharge the Notice of Violation, and, where appropriate, discharge the Temporary Order of Exclusion. The Panel may discharge the Notice of Violation subject to conditions.

(F) If the Notice of Violation is discharged after hearing subject to conditions, an Order of Exclusion shall be automatically issued if the defendant violates any of those conditions. Any such Notice of the Order of Exclusion shall be served by mail to the address provided by the defendant. The Order of Exclusion shall become effective twenty-four (24) hours after it is mailed. The Board shall also give the notice provided in Section 8-6.40.010.

(G) All decisions of the Hearing Panel are final and non-appealable until the Tribal Council appoints a Chief Judge to the Tribal Court. Upon appointment of a Chief Judge, any person who is the subject of an Order of Exclusion shall have the right to appeal the issuance of such order to the Tribal Court in accordance with the provisions of section 8.607 of this Chapter.

Section 8-6.50 Order of Exclusion Minors.

8-6.50.010 In the case of persons under the age of 18, the representative of the Tribal Council shall personally serve or cause to be served a Notice of Violation in the form and containing the statements set forth on Form 0.3, which is incorporated herein by reference, on both the defendant and his or her parent, legal guardian or person in apparent charge of the minor (collectively, “parent” or “parents”). The parents shall have the same rights as the minor to notice and to participate in the exclusion hearing.

8-6.50.020 At the hearing, the Hearing Panel will endeavor to determine if a suitable placement for the minor exists outside the boundaries of the Reservation. If a suitable placement does not exist, and it determines that the minor should be excluded, it shall exclude the minor.

Section 8-6.60 Notice of Order of Exclusion.

8-6.60.010 Upon the issuance of an Order of Exclusion from the Reservation, the Hearing Panel 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 entrance to the Reservation, and at any house or structure located on any expired leasehold within the Reservation occupied or used by the person to be excluded. The Board shall establish signs at the entrance to the Reservation, stating: "Entrance Prohibited to Persons Excluded by Order of the Hopland Band of Pomo Indians. No Trespassing by Such Persons. Prohibited Entry Subject to Criminal Penalties. (Cal. Penal Code §602.)"

(B) By mailing notice to the person to be excluded if their mailing address is known.

(C) By mailing notice to the Mendocino County Sheriff's Department and the Bureau of Indian Affairs.

(D) The notice shall be in the form and contain the statements set forth in Form 0.04, attached hereto and incorporated herein.

8-6.60.020 After the issuance of the notice provided in this Section 8-6.60, it shall be prohibited to rent or lease to any person who is the subject of an Exclusion Order, and, in the event the person has a valid lease or assignment from the Tribe, the Tribe shall terminate the lease and/or assignment and will take all steps legally required to evict or eject any such person.

Section 8-6.70 Appeal to Tribal Court. Following the issuance of a decision after hearing by the Hearing Panel, either party may appeal the Hearing Panel's decision to the Tribal Court. The Tribal Court is hereby granted jurisdiction to hear appeals of the decisions of the Hearing Panel.

8-6.70.010 Notice of Appeal. Any party wishing to challenge a decision of the Hearing Panel must file a Notice of Appeal with the Tribal Court within 30 days of the issuance of the Hearing Panel's decision. The Notice of Appeal shall be in the form required by the Tribal Court.

8-6.70.020 Filing of Administrative Record. Within 10 days of receipt of a Notice of Appeal from a decision of the Hearing Panel, the Tribal Court shall order that the Administrative Record of the matter be transmitted to the Tribal Court by the Hearing Panel. The Administrative Record shall consist of all evidence submitted to the Hearing Panel, all papers filed with the Hearing Panel, and any tape or transcript of the proceedings before the Hearing Panel. The appellant is responsible for the cost of preparing the Administrative Record and the transcript of the Hearing Panel proceedings-

8-6.70.030 Briefing Schedule, Hearing. Within 10 days of the filing of the Administrative Record, the Tribal Court shall issue an order setting a briefing schedule on the matter and set a hearing date for the appeal. The hearing shall be scheduled for no fewer than 10 and no more than 30 days from the date of the issuance of the briefing schedule order.

8-6.70.040 Standard of Review. In ruling on the appeal of a decision by the Hearing Panel, the Tribal Court shall uphold the decision of the Hearing Panel unless the Tribal Court finds that there is no substantial evidence in the Administrative Record to support

the Hearing Panel's decision or the Court finds that the Hearing Panel's decision was clearly contrary to the law.

8-6.70.050 Basis for Decision. The Tribal Court shall base its decision on an appeal of a decision of the Hearing Panel on the Administrative Record and any pleadings filed pursuant to the briefing schedule. Evidence not considered by the Hearing Panel shall not be considered by the Tribal Court.

Section 8-6.80 Tribal Enforcement Officials. The Tribal Council hereby delegates to the Hopland Tribal Police Department ("Tribal Police") the authority to enforce the provisions of this Chapter.

8-6.80.010 The Tribal Police shall have the following duties and authority under this Ordinance:

- (A) To escort persons subject to exclusion orders to a location outside the Boundaries of the Reservation, using only as much force as is reasonably necessary to remove the person from the Reservation.
- (B) To restrain a person, to the extent necessary to safely arrest and detain him/her, pending transfer of the person to the custody of a County Sheriff or other state or federal peace officer.
- (C) To take custody of the possessions of a person who is subject to an Order of Exclusion and remove those possessions to a location outside the boundaries of the Reservation or to store the possessions at the person's expense. In removing possessions, the Tribal Police shall exercise ordinary and reasonable care to avoid damage to the possessions, while they are in the custody of the Tribal Police Department.
- (D) If the possessions are stored, the Tribal Police Department 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. If the defendant fails to recover possession of the items within 15 days of the date notice is mailed, the property shall be deemed abandoned and the Tribal Police Department may sell or otherwise dispose of the property in accordance with the procedures set forth in the Tribe's abandoned property ordinance. They shall mail the proceeds from the sale of the property to the defendant, after first deducting the costs of seizure, storage and sale.

Section 8-6.90 General Provisions

8-6.90.010 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 or as consent to suit. In carrying out the provisions of this Ordinance, tribal officers and employees are immune from suit.

8-6.90.020 Severability. If any part of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of any such part or provision to the other persons or circumstances,

should not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

8-6.90.030 Effective Date. This Ordinance shall become effective on the date that it is adopted by the Tribal Council.

History: Ordinance No. 05-10-05

Section 8-7.10 Establishment of the Police Department. There is hereby established within the Tribal Government a department which shall be known as the “Hopland Tribal Police Department” (“Department”).

Section 8-7.20 Composition of the Department. The Department shall be composed of the Chief of Police, a Deputy Chief, a dispatcher and such police officers as the Chief of Police deems necessary to adequately provide law enforcement services on the Reservation, consistent with the staffing levels and the funds budgeted and appropriated for the Department by the Tribal Council pursuant to Section 8-7.30.

Section 8-7.30 Department Budget. The Chief of Police shall prepare and submit to the Tribal Council, on or before October 30th of each year, an annual budget for the Department that sets forth each position for the Department and the cost of operating the Department for the following year. The Tribal Council shall appropriate the funds approved by it for the costs of operating the Department as set forth in the Department’s budget.

Section 8-7.40 Sovereign Immunity. The Tribe is a sovereign governmental entity that can only act through its authorized officers and employees. In carrying out their duties as officers and employees of the Department, said officers and employees are exercising powers expressly delegated to them by the Tribal Council for the purpose of fulfilling specific governmental purposes. As such, when said officers and employees are acting within the course and scope of their employment, they enjoy the Tribe’s sovereign immunity from suit and cannot be sued without the consent of the Tribal Council. Any person seeking to obtain the consent of the Tribal Council to file any lawsuit or demand for arbitration against any officer or employee of the Department must file a claim with the Tribal Council under the Tribe’s Claims Ordinance.

Section 8-7.50 Chief of Police

8-7.50.010 Office Established. The Office of the Chief of Police is created and established. The Chief of Police shall report to and be under the direct supervision and control of the Tribal Council, and when the Tribal Council is not in session, then the Chair of the Tribal Council in that order.

8-7.50.020 Qualifications. No person shall be appointed to the office of the Chief of Police unless he or she also possesses the following minimum qualifications:

- (A) Possession of either a Indian Affairs (“BIA”) Indian Police Academy (IPA) certificate or a State of California Commission on Peace Officer Standards and Training (POST) certificate;
- (B) Possession of a valid California Class 3 driver’s license;
- (C) Possession of an Associate Arts degree from an accredited college or university or equivalent education, with major work in the administration of justice or public or business administration or a related field;

- (D) Knowledge of current principles, practices, and techniques of police administration, organization, and operation;
- (E) Knowledge of current laws and regulations pertaining to BIA special officers, federal jurisdiction within Indian Country, and Tribal criminal jurisdiction within a P.L. 280 state;
- (F) Knowledge of crime prevention and law enforcement techniques including but not limited to investigation, identification, patrol, traffic control, juvenile delinquency control, record keeping, and the care and custody of persons and property;
- (G) Five (5) years of experience in law enforcement, including at least two (2) years in a responsible middle management capacity, preferably in a Tribal, county, or municipal police department;
- (H) Be free of any emotional, mental, or psychological condition that would adversely impact the ability to be a Police Officer as determined by a psychiatrist or psychologist licensed to practice in the State of California employed by the Department;
- (I) Be free of any medical condition that would adversely impact the ability to perform the duties of a police officer as determined by a licensed physician or surgeon; and
- (J) Be of good moral character as determined by a background investigation.

8-7.50.030 Bonding. The Chief of Police shall, at the discretion of the Tribal Council, obtain and keep in force and effect during the term of his or her office a bond, the coverage and amount to be determined by the Tribal Council. Any premium for such bond shall be included in the Department's budget and shall be a proper charge against the Department.

8-7.50.040 Vacancy. The Chief of Police may appoint, subject to the approval of the Chair of the Tribal Council, a peace officer from within the Department or who meets the qualifications set forth in Section 8.02.020 above to act as the Chief of Police during any temporary absence or disability of the Chief of Police.

8-7.50.050 Compensation and Reimbursement. The Chief of Police shall receive such compensation and expense allowances as the Tribal Council shall from time to time determine and fix by resolution, said compensation and expenses shall be a proper charge against such funds of the Department as the Tribal Council shall designate in the Department's budget.

8-7.50.060 Powers and Duties. Under the direction and supervision of the Tribal Council or, if the Council is not in session, the Chair of the Tribal Council, the Chief of Police shall:

- (A) Enforce or cause to be enforced all applicable tribal, federal, state, and local laws that the Department has been authorized by the United States, the State of California or its political subdivisions, and the Tribal Council to enforce;
- (B) Arrest or cause to be arrested all persons who violate any such applicable laws, or issue or cause to be issued citations to said violators;

- (C) Prepare, plan, direct, supervise, and coordinate the administration, budget, duties, and responsibilities of the Police Department and its personnel;
- (D) Attend all regular Tribal Council meetings and such other meetings as the Tribal Council or Chairman or Tribal Administrator may request;
- (E) Confer with the Tribal Council, Tribal officers, and the Tribal citizens of the Tribe on law enforcement problems and assist in the development of Tribal law enforcement policies;
- (F) Coordinate law enforcement activities with other federal, state, county, or city law enforcement agencies including entering into mutual aid or cross-deputization agreements with such agencies;
- (G) Establish from time to time, as are necessary, written general orders proscribing police officer standards that are consistent with the provisions of this Chapter 2 of this Title 8;
- (H) Establish a chain of command within the Department, including specific positions or ranks for police officers, and specifying the duties and responsibilities of each position in a written job description. Such ranks can include, but are not limited to, the rank of Deputy Chief of Police, Sergeant, Detective, Police Officer, and Dispatcher;
- (I) Issue or cause to be issued permits and authorizations, subject to standards developed by the Chief of Police and approved by the Tribal Council, to employees of the Hopland Band of Pomo Indians, including the Sho-ka-Wah Casino, for carrying of firearms as part of their duties; and
- (J) Perform such other duties as the Tribal Council shall from time to time request.
- (K) Execute equitable sharing agreements on behalf of the Department, so long as such agreements do not obligate the Tribe to expend any tribal funds. The Chief of Police is authorized to execute equitable sharing agreements that require the Tribe to expend tribal funds only where such authorization is specifically granted in a resolution of the Tribal Council. As used herein, the term “Equitable Sharing Agreement” shall mean a contract with a federal, state, or local law enforcement agency that allows the Department to receive all or a portion of any real or personal property, including but not limited to cash, stocks, bonds, and choses in action, that are used in the commission of a crime and that are seized by the arresting law enforcement agency and forfeited to any federal or state agency.

Section 8-7.60 Qualifications, Training and Performance Standards for Police Officers

8-7.60.010 Definitions.

- (a) “*Accountability*” shall mean the state of being held answerable to the Tribal Council for the proper performance of a duty or function.

- (b) “*Civilian Employees*” shall mean any employee of the Department who does not hold a commission or deputization from the Tribal Council to be a police officer.
- (c) “*Commissioned Personnel*” shall mean those employees of the Department that have been commissioned or deputized as police officers by the Chief of Police.
- (d) “*Department or Departmental*” shall mean the Hopland Police Department established under Chapter 1 of this Title 8.
- (e) “*Department Manual*” shall mean the written rules and regulations of the Department governing the conduct of Department Personnel and the operations, policies and procedures of the Department codified in a book or books, and containing a table of contents and general index.
- (f) “*Employee*” shall mean any person employed by the Department who is paid out of the Department’s budget, whether on a regular or part-time basis.
- (g) “*General Orders*” shall mean written directives issued by the Chief of Police which are applicable to the Department as a whole, or any subdivision thereof, which establish a policy, regulation, or procedure concerning a given subject, which are effective until revoked by a subsequent order.
- (h) “*Misconduct*” shall mean any action or conduct on the part of an employee of the Department which, if true, could be grounds for disciplinary action.
- (i) “*Order*” shall mean an instruction, either written or verbal, issued by a superior officer.
- (j) “*Procedures*” or “*Policies and Procedures*” shall mean written directives detailing the method by which the work of the Department is to be accomplished; covering the operation of the Department as a whole, that are effective permanently or until revoked by a subsequent procedure. Procedures shall not conflict with the provisions of the Department Manual or any General Orders.
- (k) “*Police Officer*” or “*Officer*” shall mean a person who has been commissioned or deputized by the Tribal Council as a police officer, regardless of rank or sex and whether the person is temporarily or employed.
- (l) “*POST*” shall mean the California Commission on Peace Officer Standards and Training.
- (m) “*Rank*” shall mean is a position that a police officer holds within the chain of command for the Department, which, by holding said position the police officer has been given certain defined supervisory responsibilities over other police officers.
- (n) “*Seniority*” shall mean a status in the Department established first by rank and secondly by continuous time in grade or rank with the Department.
- (o) “*Superior Officer*” shall mean a police officer of the Department or higher rank.
- (p) “*Supervisor*” shall mean an employee of the Department assigned to a position requiring the exercise of direction and control over subordinates, and includes those performing in an acting or temporary capacity.
- (q) “*Uniform*” shall mean clothing of a distinctive design and color required by the Department to be worn by the employees of the Department. The term shall include articles of equipment required to be worn or carried in conjunction with the uniform.

- (r) “*Watch Commander*” shall mean the designated ranking officer on duty within the Department.

8-7.60.020 Philosophy of Enforcement. Each officer is vested with the legal authority of the Tribe and is charged with the responsibility to prevent and detect criminal activity, investigate offences, apprehend offenders, protect life and property, preserve the peace, and enforce laws and ordinances. In the discharge of these abilities, the actual steps to be taken in any given situation are left to the good judgment, discretion, initiative and resourcefulness of the individual Police Officer. Each Police Officer must fulfill his/her responsibilities with consideration, self-control, impartiality, and honesty. Each Police Officer must do that which is required for the preservation of himself/herself and others, but must refrain from any use of unnecessary or excessive.

8-7.60.030 Public Relations.

(A) It shall be the policy of the Department to strive to gain the support and to win friendly citizen cooperation in its programs and procedures in order to facilitate the accomplishment of the Department’s objectives. The attitude of the public toward the Department is molded by every experience they have in observing, talking to, and in being served and controlled by the Department’s Police Officers.

(B) The attitude of each Police Officer shall be one of service and courtesy but must be distinguished between service and servility, and between courtesy and softness. Each Police Officer must be firm, but also courteous.

(C) Each Officer shall develop a position that is friendly and unbiased, pleasant and personal in all non-restrictive situations and firm and impersonal on occasions calling for regulation and control. Every Officer must understand that an Officer’s primary function is to preserve the peace and to prevent violations, not to arrest people.

(D) The appearance, attitude, habits, private life, and the public contacts of the individual Officer affect the attitude of the public towards the Officer and the Department. Each Officer shall examine their own conduct in all public contacts and avoid situations which unnecessarily bring discredit upon them and the Department.

8-7.60.040 Qualifications. Every police officer employed by the Department shall be selected in conformance with the following requirements:

(A) May not have a felony conviction or any misdemeanor conviction for a crime that would prohibit the possession of, carrying or use of a firearm or any conviction involving a crime of moral turpitude or theft;

(B) Must be a citizen of the United States;

(C) Must be 21 years of age;

(D) Be of good moral character as determined by a thorough background investigation. The results of the investigation shall be reduced to writing and retained for the period that the police officer is employed plus three years. Such a background investigation is deemed to be a confidential personnel record and shall remain in the possession of the department.

(E) Shall be a graduate of a United States high school or have passed the General Education Development (GED) test or attained a two-year or four-year degree from an accredited college or university;

(F) Be eligible to receive and retain appointment as a Bureau of Indian Affairs Special Law Enforcement Commission;

(G) Be free of any medical condition that would adversely impact the ability to perform the duties of a police officer as determined by a licensed physician or surgeon;

(H) Be free of any emotional, mental, or psychological condition that would adversely impact the ability to be a Police Officer as determined by a psychiatrist or psychologist licensed to practice in the State of California employed by the Department.

(I) Be personally interviewed by the Chief or Deputy Chief of Police to determine the person's suitability for law enforcement service, which includes, but is not limited to, the person's appearance, personality, maturity, temperament, background, and ability to communicate.

8-7.60.050 Training and Certification Requirements.

(A) Basic Police Training: Prior to exercising the powers of a police officer, a person must possess a certificate of graduation from the BIA IPA, a Basic Police Academy certified by POST, or a California Level One Reserve Certificate.

(B) Continuous Professional Training: Police Officers shall successfully complete forty (40) hours of professional training annually. The date of employment shall be used to determine the anniversary date for compliance with this section. Professional training includes, but is not limited to, courses or classes in police tactics or methodology and Department sponsored or furnished in-service training.

(C) Bureau of Indian Affairs Training: Police officers who are not graduates of the BIA IPA must successfully complete the Bureau of Indian Affairs Criminal Justice in Indian Country course within 90 days of appointment.

(D) Firearms Proficiency: Police Officers shall demonstrate proficiency with their assigned firearms at least twice every year.

(E) Defensive Tactics Proficiency: Police officers shall demonstrate proficiency in defensive tactics at least twice a year.

(F) Annual Proficiency Testing and Certification: Police officers shall demonstrate proficiency by successfully completing a written test designed to ensure currency of knowledge in topics of tribal law, federal law, case law, and contemporary police methods. The Chief of Police shall issue a Certificate of Proficiency to recognize successful completion of this requirement.

8-7.60.060 Confidential Information.

(A) Employees of the Department shall treat as confidential the official business of the Department, and shall not impart the same to anyone except those to who it is necessary during the course of conducting official business, or as directed by their superiors. Employees shall not make it known to any person the contents of any order or directive which they may receive, unless so required by the nature of the order.

(B) Employees shall not deliver addresses at public gatherings containing confidential information concerning the Department nor shall they make any statements for publication concerning the plans, policies, or affairs of the administration of the Department, unless authorized to do so.

(C) Employees shall not make any statements or divulge any information that emanates from records on file with the Department to any persons not have the authority to have the same.

8-7.60.070 Duty and Shift Changes. The Chief of Police or the Chief's designated representative may, at the Chief's discretion, change the duty assignment, location duty assignment, hours of employment or days off of any employee, when such change is necessary to accomplish the assigned objectives of the Department. The Department shall not be responsible for transportation to the assigned duty station.

8-7.60.080 Off Duty Weapons. No officer shall carry a firearm when off duty, unless that officer is authorized by California law or until certified as a federal peace officer.

8-7.60.090 Organization for Command. Lines of control, permitting the delegation of authority, the placing of responsibility, the supervision of operations and the coordination of effort are established in conformity with the Organizational Chart of the Department which shall be approved by the Chief of Police in accordance with this Section. The Organizational Chart for the Department, approved by the Chief under this Section, shall become part of the Department's Manual.

(A) Unity of Command. Each individual, unit, and situation is under the immediate control of one and only one person. The principle is that the employee should be under the direct control of one and only one supervisor.

(B) Chain of Command. All official communications of the Department, whether moving downward, or requests, information, suggestions, or complaints moving upward, shall be confined to official channels. Each link in the chain of command shall be

respected in this regard. The order of chain of command of authority within the Department is as follows: Chief of Police; Deputy Chief of Police; and Sergeant.

(C) Departmental Command. In the absence of the Chief of Police and Deputy Chief of Police, the responsibility for the command of the Department shall follow the chain of command.

(D) Authority and Responsibility. Each employee assigned to an area of responsibility shall have the authority commensurate with that responsibility.

(E) Temporary Supervisory Assignments. All employees temporarily performing the duties of a superior in an acting capacity shall be vested with the authority and responsibilities of the superior. Said employees shall not interfere with, countermand, or modify the orders previously issued by the superior, except in an emergency.

(F) Exercise of Authority. A ranking Officer shall exercise the authority of his/her position under all conditions which require that he/she use such authority in the best interests of the Department.

(G) Supervisory Responsibilities. Each supervisor is responsible and held accountable for the actions, conduct, and performance of his/her subordinates and the operation of his/her unit. He/she shall train all subordinates to properly carry out their duties and obligations through his/her instruction, example, guidance, counsel, and development of sound operating procedures. He/she shall make known to them and promote an understanding of these and all other procedures essential to an effective and well-disciplined operation.

(1) Each supervisor shall at all times set proper example for his/her subordinates to follow and shall strive to assist them, improve their welfare, promote and maintain a high level of morale, and shall never fail to stand behind subordinate who has acted within his rights. He/she shall at all times be aware of the level of performance of his/her subordinates and shall at prescribed times, fairly and impartially evaluate them, in accordance with Tribal and Department instructions.

(H) Delegation of Responsibility. While supervisors may delegate their responsibility for the performance of duties and functions to subordinates, they cannot delegate their accountability.

(I) Seniority. When a question of seniority may arise, such seniority shall be determined first by rank or grade, second by the amount of continuous time in that rank or grade, and third by the continuous time on the Department.

(1) When two or more employees are working together on the same assignment or detail and are of equal rank or grade, such seniority shall not be exercised except in an emergency necessitating it, unless one employee has been designated by competent authority as being in command.

8-7.60.100 Duties and Responsibilities of Officers.

(A) Chief of Police or Chief. The Chief of Police is the chief executive officer of the Department. The Chief exercises all lawful powers of his/her office and issues such orders as are necessary to assure the effective operation of the Department.

(1) The Chief is charged with the responsibility of the maintaining of law and order within the Hopland Indian Reservation through the enforcement of all laws and ordinances; the prevention and suppression of affrays, breaches of the peace, riots and insurrections; and for the investigation of offenses committed in his/her jurisdiction.

(B) Deputy Chief. The Deputy Chief of Police is charged with the same duties and responsibilities as is the Chief of Police. In the absence of the Chief, the Deputy Chief of Police follows the above authority and responsibility. The Deputy Chief assists the Chief in the administration of the Department. The Deputy Chief handles all personnel matters and disciplinary matters with the concurrence of the Chief and performs such other tasks as instructed by the Chief of Police.

(1) In addition, the Deputy Chief of Police is responsible for the operation of all details and shifts. The responsibility extends to all hours in which his/her command is operational. The Deputy Chief of Police is responsible for training and supervising the subordinates under his/her control and assist them with the performance of their duties when necessary. He/she is responsible for the maintenance for good morale and discipline within his/her command. He/she shall establish such controls as necessary to ensure compliance by his/she subordinates with all orders issued by competent authority. He/she must also interpret and implement the Department's Manual. In the absence of the Deputy Chief of Police, the duties shall be assigned to a specific officer by the Chief.

(C) Sergeant. The sergeant represents the first level of supervision in the non-ranked officer series. The sergeant's position is characterized primarily by having a wide latitude for exercising initiative and judgment over operational and program management matters. Also by having authority to make supervisory decisions with a minimal degree of direction from higher levels.

(1) A Sergeant's duties include planning, assigning officers, supervises, reviews, and evaluates the work of the non-ranked police officers and supportive personnel on a shift; evaluates field activity and determines the necessary deployment; inspects personnel, equipment and property; plans, teaches, and supervises training procedures, work flow, and reports; assists in analyzing, developing, and recommending operating programs and procedures; recommends changes and modifications; prepares detailed staff report; takes immediate charge of the handling of emergencies, testifies in court to the findings or circumstances of specific cases.

(D) Police Officer. A Police Officer is the first line representative of the Tribe. He/she must conduct his/her contacts with the public in a manner conducive to good public relations. The Officer may be called upon to perform a wide variety of assignments in an equally wide variety of circumstances. He/she must inspect his/her assigned equipment before and after duty, attend briefing, roll call, regular training sessions. He/she must be proficient in emergency vehicle operation and report writing. He/she must arrest offenders, write clear and concise reports and assist the Tribal Attorney's Office with prosecution. He/she may be called upon to assist the citizenry in a variety of non-criminal capacities. He/she may be assigned to maintain security over a given area, and the persons therein and direct and regulate their activities. He/she must assist in the training of new officers and assist with other officers and other law enforcement agencies when called upon to do so under the provisions of Public Law 280.

8-7.60.110 Rules of Conduct

(A) Standard of Conduct. Employees shall conduct their private and professional lives in such a manner as to avoid bring discredit to themselves of the Department. No gambling or drinking of any alcoholic beverage will be permitted while in uniform.

(B) Loyalty. Employees shall maintain such loyalty to the Department and their associates as is consistent with their oath of office and professional ethics. Loyalty to the department and to associates is an important factor in departmental morale and efficiency.

(C) Performance of Duty. All employee shall perform their duties as required or directed by tribal or federal law, departmental rule, policy or order, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

(D) Obedience to Laws and Regulations. All employees shall observe and obey all laws and ordinances, all rules and policies of the Department, and all General or Special Orders of the Department or Division thereof. In the event of improper action or breach of discipline, it will be assumed that the employee was familiar with the law, rule, or policy in question.

(E) Establishing Elements of a Violation. The existence of facts establishing a violation of law, ordinance or policy is all that is necessary to support any allegation of such as a basis for a charge under the above section. It is not necessary that a formal charge be filed or sustained.

(F) Soliciting or Accepting Gifts, Gratuities, Rewards, Loans, etc. Employees shall not under any circumstances solicit any gifts, gratuities, rewards, or loans where there is any direct or indirect connection between their solicitation and their Departmental employment.

(G) Employees shall not accept any gift, gratuity, reward, or other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of

said employee in any matter of official business, or which might tend to cast an adverse reflection on the Department or any employee thereof.

(H) Untruthfulness. No employee shall knowingly make false statements or misrepresentations to fellow employees, subordinates, or superiors.

(I) Removal or Alteration of Official Records Prohibited. An employee shall not remove or alter any official record of the Department except as directed by his/her superiors in accordance with established Departmental procedures, or under due process of law.

(J) Tampering with Evidence. No employee of the Department shall fabricate, withhold, alter, or destroy evidence of any kind. This does not apply to destruction of evidence pursuant to a Tribal Court Order.

(K) Cowardice. An Officer shall not display cowardice or fail to support his/her fellow Officers in the performance of duty.

(L) Alcohol Use. No employee shall report for duty in an intoxicated state. For purposes of this section, the smell of an alcoholic beverage on a person's breath or the measurement of any amount of alcohol in a person's blood is presumption of intoxication.

(M) Illegal Drugs. No employee may use any illegal narcotic or drug, as defined by federal law. Use of an illegal drug shall result in termination from employment.

8-7.60.120 Advancements, Promotions, Transfers, and Re-classifications.

(A) Merit System. All advances in rank and/or pay status within the Department shall be made on the basis of merit, with consideration being given all qualified applicants. All promotions within the Department shall be made on the basis of qualification through a competitive selection process.

(B) Probationary Period. All employees having police officer powers shall serve a probationary period of one year, commencing from the date of appointment. During this period, the Department is under no obligation to retain the employee, who may be terminated with or without cause, and is not entitled to the grievance procedure. Employees having police officer powers who successfully complete probation may be dismissed only for cause as outlined in the Department personnel procedures. All other employees of the department shall serve a 90 day probationary period following the same guidelines. All probationary employees shall be entitled to medical benefits, use of sick leave, vacation and personal holiday after 90 days from the date of hire.

(C) Personnel Policies. All policies pertaining to the conduct of department employees; compensation; application of salary ranges; overtime pay; holiday pay; annual leave; sick leave; leave of absence; disciplinary actions; types of disciplinary actions; demotions; dismissals; suspensions from duty; complaints against employees of the Department shall be established by the Chief and set forth in the General Orders. Employee

grievances; appeals from personnel actions, and all other personnel procedures shall be established in the Hopland Band of Pomo Indians Policies and Procedures manual.

8-7.60.130 Uniforms and Equipment. Police officers shall possess at all times, unless otherwise exempted by a general order issued by the Chief, apparel, identification, and equipment necessary to perform the duties of an employee of the Department that the employee holds. The Department uniforms shall be worn in a military manner. Prescribed uniforms shall be maintained at all times in a clean and serviceable condition, ready for immediate use. Officers in charge shall be responsible for ensuring that their subordinates at all times properly wear and maintain their uniforms and equipment. The chief shall establish policies or promulgate general orders establishing the type, color, and appearance of the uniforms, footwear, badges, jackets, shoulder patches, rank designation, ties, tie bars, name plates, shirts, trousers, flashlights, rain coats, and jump suits to be worn by the Department personnel and the type of equipment to be worn and used by Department personnel. Such equipment shall include but not be limited to handcuffs, flashlights, batons, sidearms, including back-up weapons, rifles, shotguns, and ammunition. The procedures established by the Chief shall include but not be limited to firearm safety standards, and standards for the unholstering, use, discharge, qualifications for use and inspection of weapons.

Section 8-7.70 Temporary Detention By Police Officer Of Person Suspected Of Criminal Behavior Or Of Violating Conditions Of Parole Or Probation

8-7.70.010 Detention of Person Suspected of Criminal Behavior.

A police officer may detain any person whom the police officer encounters under circumstances which reasonably indicate that the person has committed, is committing, or is about to commit a crime.

8-7.70.020 Detention and Search of Person on Parole or Probation.

(A) A police officer may detain any person the police officer encounters under circumstances which reasonably indicate that the person has violated or is violating the conditions of parole or probation. As used in this section, parole refers to supervision of a former inmate by the appropriate agency of the United States government or the equivalent of any state or Tribal government. As used in this section, probation refers to a grant of probation by a Tribal court, any court of the United States, or a court of any state or political subdivision thereof.

(B) A police officer may search any person whose condition of parole or probation includes a clause or condition requiring the person to be subject to search.

8-7.70.030 Search for Dangerous Weapon; seizure of Weapon or Evidence. If a police officer reasonably believes that any person whom he has detained or is about to detain pursuant to this chapter is armed with a dangerous weapon and is a threat to the safety of the police officer or another, the police officer may search such person to the extent reasonably necessary to ascertain the presence of such weapon. If the search discloses a weapon or any evidence of a crime, such weapon or evidence may be seized.

8-7.70.040 Limitations.

(A) A police officer may detain the person pursuant to this chapter only to ascertain his identity and the suspicious circumstances surrounding his presence abroad. Any person so detained shall identify himself, but may not be compelled to answer any other inquiry of any peace officer.

(B) A person must not be detained longer than is reasonably necessary to affect the purposes of this section, and in no event longer than 60 minutes. The detention must not extend beyond the place or the immediate vicinity of the place where the detention was first made, unless the person is arrested.

Section 8-7.80 Use of Force and Restraints

8-7.80.010 General. Police officers may use only that force which is necessary and reasonable in carrying out the performance of their duties.

8-7.80.020 Use of Excessive or Unnecessary Force Prohibited. Police Officers shall not use excessive or unnecessary force in carrying out their duties. Use of excessive or unnecessary force shall result in disciplinary action.

8-7.80.030 Authorization to Use Deadly Force. Police officers may, after giving a warning, if feasible, use deadly force to protect themselves or others when they reasonably believe an assailant poses an immediate threat of death or serious bodily harm when other means have been exhausted or are not reasonably available. A police officer may, after giving a warning, if feasible, use deadly force to prevent the escape of a fleeing felon whom the officer has probably cause to believe will pose a significant threat to human life if escape should occur.

8-7.80.040 When Deadly Force May Be Used. Police officers are authorized to use deadly force when it reasonably appears necessary to: Protect themselves or others from an immediate threat of death or serious physical harm;

(B) Prevent a crime where the suspect's actions place a person or persons in jeopardy of death or serious physical harm;

(C) Prevent the escape of a fleeing felon whom the officer has probably cause to believe will pose a threat to human life if escape should occur.

(D) Justifiably kill an animal:

(1) In self-defense;

(2) To prevent substantial harm to the police officer or another;

(3) When an animal is so badly injured that humanity requires its relief from further suffering.

Section 8-7.90 Restrictions on Use of Firearms. Police officers are not authorized to draw, display, or brandish any firearm, except during training at the firearm range, unless the circumstances create a reasonable belief that it may be necessary to use the firearm in conformance with this ordinance.

Police officers are not authorized to discharge their firearm as warning shots; if it appears likely that an innocent person might be injured, from a moving vehicle, except as a last resort or at a moving vehicle, unless it is absolutely necessary to do so to protect against imminent threat to life of the officer or others.

Section 8-7.100 Use of Restraints. Police officers may use leg restraints and hand cuffs to effect control of a suspect. The use of a “hog tie” or any similar restraint that places a suspect in a position for positional asphyxiation is prohibited.

Section 8-7.110 Handcuffing Required. All suspect(s) will be searched and handcuffed behind their backs before placing them in any Department vehicle. A police officer’s weapon will be holstered prior to handcuffing a suspect. The Chief of Police shall establish specific procedures or general orders for the use of handcuffs by Officers.

Section 8-7.120 Vehicle Pursuits

8-7.120.010 General. Police Officers may conduct pursuits of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a felony, though no felony has actually been committed, if there is reasonable ground for believe that a felony has been committed.

8-7.120.020 Fresh Pursuit. Police Officers may conduct an off-Reservation pursuit (crossing the Reservation boundary line) when in fresh pursuit of a suspected felon. Fresh pursuit shall have the meaning as defined in common law.

8-7.120.030 When Pursuit Must Be Discontinued. Where it cannot be established that a felony has been committed, or where there is a lack of sound reasonable cause to believe that a felony has been committed, Officers shall cease vehicular pursuits. A pursuit shall be discounted when there is a clear danger to the public and the continuance of the pursuit would permit the danger to exist, or if there is danger to pursuing Officer(s). When other law enforcement agencies supersede the pursuit an off-reservation pursuit, Police Officers shall discontinue the pursuit. The on-duty supervisor may, at any time, order a pursuit to cease.

8-7.120.040 Pursuit Policies and Procedures Required. The Chief of Police shall develop written policies and procedures as part of the Department Manual to govern pursuits by Police Officers.

Section 8-7.130 General Provisions

8-7.130.010 Section 3. Severability. In the event that any section or provision of this Ordinance is held or determined to be invalid by any court of competent jurisdiction, it is the intent of the Tribal Council that the remaining sections or provisions of this Ordinance, and any amendments of this Ordinance, shall continue in full force and effect.

8-7.130.020 Section 5. Amendments. This Ordinance may be amended at any time by the Tribal Council when such amendment is necessary to promote the general health, safety, and welfare of the Tribe or its members.

8-7.130.030 Section 6. Repeal of Prior Ordinances. All prior Ordinances previously enacted by the Tribal Council which are inconsistent with the provisions of this Ordinance are hereby repealed. If the provisions of this Ordinance conflict with the provisions of any other Ordinance, the provisions of this Ordinance shall control.

8-7.130.040 Section 7. Effective Date. This Ordinance shall take effect immediately after its adoption by the Tribal Council.

History: Ordinance No. 04-12-22; 08-01-13; 07-03-23.

TITLE 9
SECTION 3

ORDINANCE NO. 04-06-14

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE HOPLAND
BAND OF POMO INDIANS ADOPTING A NEW TRIBAL ORDINANCE
KNOWN AS THE SANEL TRIBAL UTILITY ORDINANCE OF THE
HOPLAND BAND OF POMO INDIANS.

The Tribal Council ("Council") for the Hopland Band of Pomo Indians ("Tribe") hereby ordains as follows:

Findings and Declarations. The Council, in enacting this Ordinance, finds and declares that:

- A. The Tribe is, a federally recognized Indian Tribe organized under the provisions of a written Constitution establishing the Hopland Tribal Council as the governing body of the Tribe.
- B. The Tribe is the beneficial owner of the Hopland Indian Reservation ("Reservation") which comprises approximately 2,070 acres of trust and fee land located in Mendocino County, California.
- C. The Tribe is the owner and operator of a domestic water and sewer system which provides water and sewer services to the residents of the Reservation.
- D. Except for the provisions of the Uniform Codes adopted by the Tribe, there are no standards for the development of "as built" drawings for the water and sewer distribution systems maintained on the Reservation.
- E. The operation and maintenance of the Tribe's domestic water system, sanitary sewer facilities, the provision of water and sewer services, and the management of water and sewer rates are an appropriate function of the tribal government.
- F. In addition, there is an opportunity for the Tribe to construct and operate its own power plant that will generate electrical energy on the Reservation. The construction and operation of such a plant by the Tribe will generate additional revenues for the Tribe and result in the cost of electrical energy being reduced on the Reservation.
- G. The purposes of this Ordinance are to establish: (1) the Sanel Tribal Utility District with the authority to maintain and operate the Tribe's water system, sewer system and electrical system, and any other utility services and facilities acquired by the District in the future; (2) uniform procedures for the application and discontinuance of water, sewer and electrical services and any other public utilities services provided by the District in the future; (3) standards for the construction, extension, maintenance, repair and operation of the water, sewer,

and electrical systems and any other systems owned and operated by the District; and (4) procedures for the setting of rates, collection of bills, and processing of customer complaints.

H. The adoption of this Ordinance is required in order to protect the public health and safety.

Adoption of Hopland Sewer Ordinance. The following new Chapters are hereby added to the Hopland Tribal Code, entitled "Public Utilities Ordinance" which shall provide as follows:

SANEL TRIBAL UTILITY DISTRICT

Sections:

- 9.301 Creation of the Sanel Tribal Utility District; Mission
- 9.302 General Powers
- 9.303 Specific Powers
- 9.304 Board of Directors
- 9.305 Executive Director of the STUD

9.301 Creation of the Hopland Public Utility District, Mission. A subdivision of the Hopland Tribal Government to be known as the Sanel Tribal Utility District ("STUD") is hereby created. The mission of the STUD is to develop, operate and maintain water, sewer and electrical systems for the purpose of providing water, sewer and electrical services on the Hopland Indian Reservation, for tribal members, residents of the Reservation, and visitors to the Reservation. The STUD shall be delegated the powers set forth in this Chapter. The STUD shall consist of the Water Department, Sewer Department, Electrical Department and any other department established under this Ordinance.

9.302 General Powers. The STUD shall have the power, and is authorized, in its own name, subject to the provisions of Section 9.304 of this Chapter to make and enter into contracts, to employ agents and employees, to acquire, manage, maintain and operate equipment, buildings, works, and improvements, and to acquire, hold, and dispose of property for the purpose of providing water, sewer and electrical services on the Reservation. The debts, liabilities, and obligations of the STUD shall be solely the debts, liabilities, and obligations of the STUD.

9.303 Specific Powers. The STUD is authorized to apply for and receive federal, state, tribal and other funds as a public utility operator. The STUD shall also have the authority to contract for the purchase, lease and/or rental of whatever services or equipment it may determine to be necessary to achieve the stated objectives of this Chapter, including, but not limited to, the purchase of vehicles and equipment, and the creation of infrastructure, including, but not limited to, water, sewer and power plants, distribution systems, dams, reservoirs, ponds, maintenance and storage facilities, parking lots and buildings. In the operation of the systems and services that are the object of this Ordinance, the STUD shall establish from time to time by resolution, rate and charges and to modify such rates and charges as may appear necessary. The STUD and its Board shall have the authority to enact and enforce any regulations necessary to carry out the purposes of this Chapter.

9.304 Board of Directors. The STUD shall be governed and directed by a Board of Directors, consisting of five members, two of whom shall be appointed to an initial four year term, two of whom shall be appointed for an initial three year term and one of whom shall be appointed for an initial one year term. Subsequently the terms of all members of the Board shall be four years. The Board of Directors shall be appointed by the Tribal Council. The Board shall be composed of a President, Vice-President, Secretary, Treasurer and one at large representative. The Board of Directors shall have the authority to adopt rules of procedure governing how the Board will conduct its meetings, elect its officers, appoint and/or hire its employees, fill its vacancies and conduct the business of the STUD. The Board shall have the authority to direct the operations of the STUD, pursuant to the powers listed in Section 9.303 of this Chapter. The STUD shall have the authority to promulgate regulations to regulate the operations of the STUD, and to create a budget for the STUD, subject to the review and approval of the Council. All expenditures by the STUD of \$5,000.00 or more on one service, contract, item of equipment, or project that is not within the budget approved by the Board, shall require the specific approval of the Board of Directors of the STUD.

9.305 Executive Director of the STUD. The day to day operation of the STUD shall be directed by the Director of the STUD, who shall be appointed by the Board and confirmed by the Council. All decisions of the Director shall be subject to the review and approval of the Board. The President of the Board may be appointed by the Board to serve as the Director. Unless and until a separate appointment is made, the President of the Board shall perform all of the duties of the director under the provisions of this Ordinance.

SEWERS AND SANITATION

Chapters :

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Private Sewage Disposal

Building Laterals, Street Laterals, Connections

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Use of Public Sewers for Domestic, Commercial and Industrial Waste Discharges

Sewer Service Charges

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Receiving Station Use for Domestic Septic Tank Cleanings

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9.307	Applicant.
9.308	Board.
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9.323	Interceptor.
9.324	Lift Station.
9.325	Main Sewer.
9.326	Manager of Sewer Department
9.327	Multiple Dwelling.
9.328	Outside Sewer.
9.329	Owner.
9.330	Permit.
9.331	Person.
9.332	Premises.
9.333	Pressure Sewer.
9.334	Private Sewer.
9.335	Public District.
9.336	Public Sewer.
9.337	Quality Characteristics and Analyses.
9.338	Reservation.
9.339	Sanitary Sewer.
9.340	Sewage.
9.341	Sewage Treatment Plant.
9.342	Sewer.
9.343	Sewer Service Unit.
9.344	Sewerage Works.
9.345	Side Sewer.
9.346	Single Family Unit.
9.347	Slug.
9.348	Standard Specifications.

9.349	State.
9.350	Street Lateral.
9.351	Streets.
9.352	Storm Sewer or Drain.
9.353	Storm Water.

9.306 Generally. The definition of terms set forth in this Chapter shall apply throughout this Title.

9.307 Applicant. "Applicant" shall mean a person or entity making application under the provisions of this Ordinance for a permit for a sewer or plumbing application. An applicant shall be the person or an authorized agent of the person who has a legal right to possess the tribal land to be served by the sewer for which a permit is requested.

9.308 Board. "Board" shall mean the Board of Directors for the District.

9.309 Building Lateral. "Building lateral" shall mean that portion of a side sewer beginning at the plumbing or drainage outlet of any building or industrial facility and running to the property line or to a private sewage disposal system.

9.310 Combined Sewer. "Combined Sewer" shall mean a sewer designed to receive both surface run-off and sewage.

9.311 Connection. "Connection" shall mean the connecting of a lateral sewer line to the District's sewer system for the purpose of providing sewer service to an Applicant who has been approved by the District to receive sewer service and which connection is made in accordance with all applicable standards established by the Department for that purpose.

9.312 Contractor. "Contractor" shall mean a person or entity duly licensed by the Tribe and the State to perform the type of work to be done under the permit.

9.313 Council. "Council" shall mean the Hopland Tribal Council.

9.314 County. "County" shall mean the County of Mendocino, California.

9.315 Department. "Department" shall mean the Hopland Tribal Sewer Department.

9.316 Director of Sewer Department "Director of Sewer Department" shall mean a person, appointed by the Board to fulfill the duties of the Director of the Sewer Department set forth in Title 11 of the Hopland Tribal Code.

9.317 District. "District" shall mean the Sanel Tribal Utility District created under this Ordinance.

9.318 Domestic Sanitary Sewage. "Domestic sanitary sewage" shall mean water carried wastes from residences, hotels, motels, restaurants and business establishments or any structure occupied by any person, but excluding all ground water, surface water, storm water and industrial wastes.

9.319 Engineer. "Engineer" shall mean any person designated by the Council of the Tribe as the Tribal Engineer to perform the services required by this Ordinance.

9.320 Food Waste. "Food Waste" shall mean solid waste from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

9.321 Hopland Indian Tribe. "Hopland Indian Tribe" or "Tribe" means the Hopland Band of Pomo Indians.

9.322 Industrial Wastes. "Industrial wastes" shall mean the wastes of producing, manufacturing and processing operations of every kind and nature. It shall not include domestic sanitary sewage.

9.323 Interceptor. "Interceptor" shall mean any sewer and necessary appurtenances of such sewer, including but not limited to mains, pumping stations, and sewage flow regulating and measuring stations, which is designed or used to conduct sewage originating in more than one local government unit, or which is designed or used to conduct all or substantially all of the sewage originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit.

9.324 Lift Station. "Lift Station" or "Pumping Station" shall mean a pump, pipes and related facilities used to pump sewage up hill through sewerage works.

9.325 Main Sever. "Main sewer" shall mean a public sewer designed to accommodate more than one lateral sewer.

9.326 Manager of Sewer Department. "Manager of the Sewer Department" or "Manager" shall mean the person appointed by the Board as the Manager of the Sewer Department for the District.

9.327 Multiple Dwelling. "Multiple dwelling" shall mean a building or buildings on a single parcel for residential purposes containing more than one kitchen or having facilities for the occupancy of more than one family, including, but not limited to, the following: hotels, motels, mobile home parks, apartment houses, condominiums, duplexes, rooming houses, boarding houses, guest houses and dormitories.

9.328 Outside Sewer. "Outside sewer" shall mean a sanitary sewer located on fee land within or outside the boundaries of the Reservation not subject to the control or jurisdiction of the Tribe.

9.329 Owner. "Owner" shall mean the person who has the legal right to occupy any premises within the Reservation.

9.330 Permit. "Permit" shall mean any written authorization required pursuant to this or any other regulation of the Council for the installation of any sewerage work.

9.331 Person. "Person" means an individual, company, association, co-partnership, public or private corporation, or any group acting in combination as a unit or any Tribe, provided, however, that the term shall not include the Hopland Band of Pomo Indians.

9.332 Premises. "Premises" shall mean any land owned by the United States of America in trust for the Tribe that is lawfully occupied or used by any person under any assignment or lease approved by the Tribe and any land owned in fee by any person that is subject to the jurisdiction of the Tribe.

9.333 Pressure Sewer. "Pressure Sewer" shall mean a sewer receiving sewage flow directly from a pump station and discharging under pressure into an interceptor, trunk, main, lateral, another pumping station, or treatment plant.

9.334 Private Sewer or Septic System. "Private sewer" or "Septic System" shall mean a sewer serving an independent sewage disposal system not connected with a public sewer and which accommodates one or more buildings or uses.

9.335 Public District. "Public district" shall mean any district organized under the laws of the State of California which is authorized to engage in and is engaged in collecting and disposing of sewage.

9.336 Public Sewer. "Public sewer" shall mean a sewer lying within a street or easement which is controlled by or under the jurisdiction of the Tribe.

9.337 Quality Characteristics and Analyses. "Quality characteristics and analyses" shall mean as defined in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the Public Health Association and approved by the United States Environmental Protection Department, or EPA Standard Procedures, and all sample collection, laboratory procedures of analyses, tests, measurements and data reporting.

9.338 Reservation. "Reservation" shall mean all lands within the Hopland Indian Reservation, subject to the jurisdiction of the Tribe.

9.339 Sanitary Sewer. "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

9.340 Sewage. "Sewage" shall mean water carrying wastes from residences, business buildings, institutions, industrial establishments or any structure fit for human occupation.

9.341 Sewage Treatment Plant. "Sewage treatment plant" shall mean any arrangement of ponds, devices and structures used for treating sewage. The term "Sewage treatment plant" shall not include a Private Sewer.

9.342 Sewer. "Sewer" shall mean a pipe or conduit for carrying sewage.

9.343 Sewer Service Unit. One sewer service unit is defined as being a single unit of sewer discharge having characteristics of flow, biochemical oxygen demand (B.O.D.) and suspended solids equivalent to that generated and discharged by a typical single family residential unit.

9.344 Sewerage Works. "Sewerage works" shall mean all facilities owned or controlled by the District except private sewers, for collecting, pumping, treating and disposing of sewage.

9.345 Side Sewer. "Side sewer" shall mean the sewer line beginning at the foundation wall of any building and terminating at the main sewer and shall include the building lateral and street lateral together.

9.346 Single Family Unit. "Single-family unit" shall mean and refer to the place of residence for a single-family.

9.347 Slug. "Slug" shall mean anything that prevents sewage from flowing through any pump, pipe, tank or other sewerage works of the Tribe or District.

9.348 Standard Specifications. "Standard specifications" shall mean a set of documents containing design and construction standards for all sewage works as adopted by and amended from time to time by the Board by resolution.

9.349 State. "State" shall mean the State of California.

9.350 Street Lateral. "Street lateral" shall mean that portion of a side sewer lying within a public street connecting a building lateral to the main sewer.

9.351 Streets. "Streets" shall mean any public highway, street, alley, public place, public easement or right of way.

9.352 Storm Sewer or Drain. "Storm sewer" or "storm drain" shall mean a sewer which carries storm and surface or ground waters and drainage, but to which sewage is not intentionally admitted.

9.353 Storm Water. "Storm water" shall mean the water running off or draining from the surface and sub-surface of an area during and after a period of rain or irrigation.

GENERAL PROVISIONS

Sections:

9.354	Short Title.
9.355	Rules and Regulations.
9.356	Purpose and Retroactivity.
9.357	Violation Unlawful.
9.358	Relief on Application Waters
9.359	Permits Fees
9.360	Plumbing and Sewers on Fee Land
9.631	Authority.
9.362	Damage to Sewer Facilities.
9.363	Report and Adjustment.

9.354 Short Title. This Ordinance shall be known as the Sewer Ordinance of the Tribe.

9.355 Rules and Regulations. The following rules and regulations respecting sewer construction and disposal of sewage and drainage of buildings and connection to the sewer works of the Tribe are adopted through enactment of this Ordinance, and all work under this Ordinance shall be performed as required by this Ordinance and not otherwise.

9.356 Purpose and Retroactivity. This Ordinance is intended to provide rules and regulations for the use and construction of sanitary sewer facilities hereafter installed, altered or repaired within the Reservation. This Ordinance shall not apply retroactively, unless a section of this Ordinance specifies otherwise, and in the event of an alteration or repair hereafter made after enactment, it shall apply only to the new materials and methods used therein, except for correction of defective sewers, elimination of area drainage or roof leader connection to sanitary sewers which permit or cause excessive infiltration or inflow. Such defects shall be corrected on notice.

9.357 Violation Unlawful. Following the effective date of this Ordinance, it shall be unlawful for any person to connect to, construct, install or provide, maintain and use any other means of sewage disposal from any building located on any land owned by the United States of America in trust for the Tribe or any fee land subject to the jurisdiction of the Tribe, except by connection to a public sewer in the manner as provided in this Ordinance or as otherwise specifically provided in this Ordinance. It shall also be unlawful for any person to deface, damage, destroy or tamper with any Sewage Works. Any person found guilty of violating this Section shall be guilty of a misdemeanor which, in addition to any civil remedies, shall be punishable by a fine not to exceed \$ 1,000.00, for each and every violation.

9.358 Relief on Application and Waiver:

A. When any person, by reason of special circumstances, is of the opinion that any provision of this Ordinance is unjust or inequitable as applied to his/her premises, he/she may make written application to the Board stating the special circumstances, citing the provision complained of, and requesting suspension or modification of that provision as applied to his/her premises.

B. If such application be approved, the Board may, but only to the extent compatible with applicable Tribal, State and Federal laws, rules and regulations pertaining to wastewater facilities constructed, in part, with grant funds, by written resolution, suspend or modify the provision complained of, as applied to such premises, to be effective as of the date of the application and continuing during the period of the special circumstances.

9.359 Permits and Fees. No public sewer, side sewer, building lateral or other sewage facility shall be installed, altered or repaired within the Reservation until a permit for the work has been obtained from the District and all fees paid in accordance with the requirements of this and other Ordinances, rules and regulations of the District.

9.360 Plumbing and Sewers on Fee Land. The installation, use, maintenance, repair and inspection of all plumbing and sewers within any premises, including fee land, within the Reservation shall be subject to the provisions of this Ordinance.

9.361 Authority. This Ordinance is adopted by the Council pursuant to Article VIII and IX of the Constitution of the Tribe as now provided or as subsequently amended.

9.362 Damage to Sewer Facilities. The customer shall be liable for any damage to the District's Sewerage Works when such damage results from causes originating at the customer's dwelling or on the customer's premises. The cost for repairing any such damage shall be paid by the customer, and the cost shall be due and payable to the District upon the Board's rendering a bill for the cost.

9.363 Report and adjustment. Should any customer have complaints with regard to sewer service, such customer shall contact the Director for adjustment.

USE OF PUBLIC SEWERS REQUIRED

Sections:

- 9.364 Disposal of Wastes.
- 9.365 Treatment of Wastes Required.
- 9.366 Unlawful Disposal.
- 9.367 Occupancy Prohibited.
- 9.368 Sewer Required.
- 9.369 Sewer and Water Pipes.

9.364 Disposal of Wastes. It shall be unlawful for any person to place, deposit, or permit to be deposited upon any premises within the Reservation, or in any area under the jurisdiction or control of the Tribe, any human or animal excrement, food waste or other objectionable waste except as provided for in this Ordinance.

9.365 Treatment of Wastes Required. It shall be unlawful to discharge into any stream or watercourse any sewage, industrial wastes located within the Reservation, or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this Ordinance and other applicable Tribal Ordinances.

9.366 Unlawful Disposal.

A. Except as provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facility intended or used for the disposal of sewage.

B. No rain, surface or subsurface water shall be connected to or discharged into any sanitary sewer system.

C. No commercial food waste grinder shall be connected to a private sewage disposal system unless permission has first been obtained from the Manager of the Sewer Department.

D. No industrial wastes or toxic wastes shall be discharged into any sanitary sewer system except as provided in the Ordinances of the Tribe.

E. An approved type water tight sewage or wastewater holding tank, the contents of which, due to their character, must be periodically removed and disposed of at some approved off-site location, shall be installed only when required by the Environmental Protection Director or the Health Officer of the Indian Health Service to prevent anticipated surface or subsurface contamination or pollution damage to the public sewer, or other hazardous nuisance condition.

F. Direct connection of swimming pool drains to sewers of the District are prohibited. Disposal of water and wastewater from swimming pools into the Sewerage Works of the Tribe shall also be prohibited.

9.367 Occupancy Prohibited. No building, industrial facility, or any other structure located on any premises shall be occupied until the owner of the premises has complied with all Ordinances, rules and regulations of the Tribe.

9.368 Sewer Required. Any structure located on any premises within the Reservation, including on fee lands, in which plumbing is or will be installed and to which a public sewer is available shall, at the expense of the owner of the premises, connect the plumbing of such structure directly to the proper public sewer in accordance with the provisions of this Ordinance. A public sewer shall be deemed to be available if a public sewer is located within five hundred feet (500') of the property line of the premises involved and the Director has determined that there is sufficient capacity within the system to handle the connection.

9.369 Sewer and Water Pipes. Side sewers or permitted drainage piping shall not be run or laid in the same trench with water service pipes or any underground water pipes unless BOTH of the following requirements are met:

A. The bottom of the water pipe at all points shall be at least twelve inches (12") above the top of the sewer line.

B. The water pipe shall be placed on a solid shelf excavated at one side of the common trench.

PRIVATE SEWAGE DISPOSAL

Sections:

9.370	Sewer Not Available.
9.371	Permit Required.
9.372	Inspection Required.
9.373	Design Requirements.
9.374	Abandonment of Facilities.
9.375	Maintenance by Owner.

- 9.376 Additional Requirements.
- 9.377 Revocation.
- 9.378 Pressure Sewers.

9.370 Sewer Not Available. Where a public sewer is not available, as defined in § 9.368, the sewer of any structure located within the Reservation shall be connected to a private sewage disposal system complying with the provisions of this Ordinance.

9.371 Permit Required. Before the commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the Engineer and/or the Manager of the Sewer Department and/or the Tribal Planner mid/or the Tribal Building Inspector.

9.372 Inspection Required. No private sewage disposal system shall be placed in use until the installation is inspected and approved in writing by the Tribal Engineer and/or the Director and/or the Building Inspector. The District shall be allowed to inspect the work at any stage of construction. The District shall be notified by the applicant when the work is ready for final inspection and before any underground portions are covered.

9.373 Design Requirements. The type, capacities, locations and layout of a private sewage disposal system shall comply with all requirements of the Department and the Indian Health Service. No private sewage disposal shall be permitted to discharge to any stream or water course.

9.374 Abandonment of Facilities. Within one year of a public sewer becoming available to a premises served by a private sewage disposal system, as provided in § 9.368, a direct connection shall be made to the public sewer in compliance with the ordinances, rules, and regulations of the District, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material as determined by the Director. Exceptions to this Section shall be requested in writing to the Director and may be approved by the Board.

A. Every abandoned building lateral or part thereof, shall be plugged or capped in an approved manner not more than five feet (5') from the property line of any premises.

B. Every cesspool, septic tank and seepage pit which has been abandoned or has been discontinued otherwise from further use or to which no waste or soil pipe from a plumbing fixture is connected, shall have the sewage removed therefrom and be completely filled with earth, sand, gravel, concrete or other approved material.

C. The top cover or arch over the cesspool, septic tank or seepage pit shall be removed before filling and the filling shall not extend above the top of the vertical portions of the sidewalls or above the level of any outlet pipe until inspection has been called and the cesspool, septic tank or seepage pit has been inspected by the District. After such inspection, the cesspool, septic tank or seepage pits shall be filled to the level of the top of the ground.

D. No person owning or controlling any cesspool, septic tank, or seepage pit on the premises of such person in that portion of any public street, alley or other public property abutting such premises, shall fail, refuse or neglect to comply with the provisions of this Section or upon receipt of notice to so comply.

E. Where disposal facilities are abandoned as a consequence of connecting any premises with the public sewer, the permittee making the connection shall fill all abandoned facilities as required by the District within thirty (30) days from the time of connecting to the public sewer.

9.375 Maintenance by Owner. The owner of a private sewage disposal system shall, at his/her own expense, maintain such system in a manner consistent with the requirements and overall purpose of this Ordinance and other Tribal and federal law.

9.376 Additional Requirements. No requirement contained in this Ordinance shall be construed to interfere with any additional requirements that may be imposed by any law, ordinance, rule or regulation of the Tribe or the District.

9.377 Revocation. Any permit to construct and/or use a private sewage disposal system issued pursuant to this Ordinance may be revoked upon certification by the engineer and/or Director and/or Building Inspector and/or Public Officers of the Indian Health Service that such system is not adequate for the purpose for which it was intended, or is not in operating condition, or constitutes a hazard to the health of any person, or constitutes a public or private nuisance by entering water courses, polluting ground water supplies, rises to the ground surface or any other detrimental effect.

9.378 Pressure Sewers. Where a public sewer is not available and ground conditions are not suitable for septic tank effluent leach field disposal, application may be made for installation of septic tank to hold effluent to be pumped and transported to a sewer treatment plant for disposal. All pumping and maintenance shall be the responsibility of the applicant. Charges for such connection shall be determined by the Engineer.

BUILDING LATERALS, STREET LATERALS, CONNECTIONS

Sections:

9.379	Permit Required.
9.380	Design and Construction Requirements.
9.381	Separate Sewers.
9.382	Old Laterals.
9.383	Cleanouts.
9.384	Sewer Too Low.
9.385	Connection to Public Sewer.
9.386	Maintenance of Side Sewers.
9.387	Testing.

9.379 Permit Required. In accordance with "Permits & Fees" of this Ordinance, no person shall construct a building lateral or make a connection with any public sewer without first obtaining a written permit from the Department and the Tribe and paying all fees and connection charges as required herein.

9.380 Design and Construction Requirements. Design and construction of building laterals and street laterals shall be in accordance with the requirements of the Department and/or the Tribe as adopted from time to time, including, but not limited to, the Uniform Plumbing Code as adopted by the Council.

9.381 Separate Sewers. Every structure to be connected to a public sewer shall be separately and independently connected with a public sewer; excepting, where two (2) or more structures are located on the same premises, the requirement of separate connections may be waived by the Department.

9.382 Old Laterals. Old laterals may be used in connection with new construction if they are found, upon examination and test, to meet all requirements of the District.

9.383 Cleanouts. Cleanouts in building laterals shall be provided in accordance with the regulations and requirements of the Tribe as amended from time to time by the Council.

9.384 Sewer Too Low. In all buildings in which any building sewer lateral is too low to permit gravity flow to the public sewer, sanitary sewage carried by such a building lateral shall be lifted by artificial means and discharged to the public sewer at the expense of the owner. All such installation shall be approved by the Engineer.

9.385 Connection to Public Sewer. Any connection into a public sewer shall be made in accordance with the requirements of the District as adopted from time to time and at the applicant's expense. Any damage to the public sewer caused by such connection shall be repaired in accordance with the requirements of the District at the cost of the applicant.

9.386 Maintenance of Side Sewers. Side sewers shall be maintained by the owner of the property served by the side sewer.

9.387 Testing. All side sewers shall be tested in accordance with the District's standards.

PUBLIC SEWER CONSTRUCTION

Sections:

- 9.389 Permit Required.
- 9.390 Design and Construction Standards.
- 9.391 Plans, Profiles and Specifications Required.
- 9.392 Subdivisions.
- 9.393 Easements or Rights of Way.

- 9.934 Persons Authorized to Perform Work.
- 9.395 Compliance With Local Regulations.
- 9.396 "As-Built" Drawings.
- 9.397 Completion of Sewerage Works Required.
- 9.398 Reimbursement Agreement.
- 9.399 Special Reimbursement Agreements.

9.389 Permit Required. No person shall construct or extend any public sewer without first obtaining a written permit from the Department and paying all fees and connection charges and furnishing all bonds as required by the District. This subsection shall not apply to contractors constructing sewers and appurtenances under contracts entered into by the District for the construction of tribal structures or buildings.

9.390 Design and Construction Standards. Minimum standards for the design and construction of sewers within the Reservation shall be in accordance with Standard Improvement Details adopted by the Council and as amended from time to time. Copies of such requirements shall be available to the public at the office of the Department. The Director may, with the consent of the Council, permit modifications or require higher standards where unusual conditions are encountered.

9.391 Plans Profiles and Specifications Required. The application for a permit for public sewer construction shall be accompanied by two (2) complete sets of plans, profiles and specifications, complying with all applicable ordinances, rules and regulations of the Tribe and the District, prepared by a civil engineer registered in the State, showing all details of the proposed work based on an accurate survey of the ground. The application, together with the plans, profiles and specifications shall be examined by the Engineer who shall within thirty (30) days approve them as filed or require them to be modified as he/she deems necessary for proper installation. After examinations and approval by the Engineer, the application, plans, profiles and specifications may be submitted to the Board at its next regular meeting for its consideration. When the Engineer is satisfied that the proposed work is proper and the plans, profiles and specifications are sufficient and correct, the Engineer shall issue a permit predicated upon the payment of all connection charges, fees and furnishing bonds and deposits as required by the District. The permit shall prescribe such terms and conditions as the Engineer finds necessary in the public interest.

9.392 Subdivisions. The requirements of the above provision shall be fully complied with before any final subdivision map is approved. The final subdivision map shall provide for the dedication for public use of streets, in which public sewer lines are to be constructed. If a final subdivision map of a tract is recorded and the work of constructing sewers to serve the tract is not completed within the time limit allowed in the permit, the District may extend the time limit or may complete the work and take appropriate steps to enforce the provisions of the bond furnished by the sub-divider.

9.393 Easements or Rights of Way. In the event an easement is required for the extension of the public sewer or the making of connections, the applicant shall procure and have accepted by the Department a proper easement or grant of right of way having a minimum width of ten feet (10') sufficient in law to allow the laying and maintenance of such extension or connection.

9.394 Persons Authorized to Perform Work. Only properly licensed contractors or the Department and its designated agents shall be authorized to perform the work of public sewer construction within the Reservation. All terms and conditions of the permit issued by the Tribe to the applicant shall be binding on the contractor. The requirements of this Section shall apply to any side sewer(s) installed concurrently with public sewer construction.

9.395 Compliance with Local Regulations. Any person constructing a sewer within a street shall comply with all applicable tribal, federal, State or County laws, ordinances, rules and regulations pertaining to the cutting of pavement, opening, barricading, lighting and protecting of trenches, backfilling and repaving thereof and shall obtain all permits and pay all fees required by the department having jurisdiction prior to the issuance of a permit by the Tribe.

9.396 "As-Built" Drawings. . As a condition of final acceptance by the Board, two (2) sets of "As-Built" drawings showing the actual locations of all mains, structures, wyes, laterals, and other changes to the construction drawings, shall be filed with the District.

9.397 Completion of Sewerage-Works Required. Before acceptance of any sewerage works by the Board and prior to the admission of any sewage into the system, the sewerage works shall be tested by the Department and shall be completed in full compliance with all requirements of the District.

9.398 Reimbursement Agreement. After the cost of the public sewer main extension has been deposited or paid by the person making such extension, the District may, but not for longer than ten (10) years after the date of such extension is originally connected to the District's sewerage system, collect from any person connecting to such extension, except the person originally installing such extension, that fraction of the cost of such extension, as approved by the District, as the amount of front footage owned by such person subsequently connecting to such extension bears to the total amount of front footage held by potential users along the extension as determined by the District as of the time the extension is connected to the sewer system. Such sums as are thus actually received by the District shall be paid by the District to the person originally making such extension, but the District shall in no way be obligated to assure that the person making such extension is paid the total cost thereof nor to initiate any such action nor incur any expense to collect any sum to be paid such person; nor shall such refund be made from any other revenues of the District.

Where more than one person contributes toward the making of the extension, such sums as are actually collected shall be refunded to such persons, pro rata, according to the amounts which they severally contribute toward the cost of the extension and pursuant to the preceding plan.

9.399 Special Reimbursement Agreements. The District may, where special conditions exist, upon approval by the Council, enter into a special reimbursement agreement with the person making the public sewer extension.

USE OF PUBLIC SEWERS FOR DOMESTIC
COMMERCIAL AND INDUSTRIAL WASTE CHARGES

Sections:

- 9.3101 Objective.
- 9.3102 Permits.
- 9.3103 Acceptable Wastes.
- 9.3104 Prohibited Wastes.
- 9.3105 Restricted Waste Discharges.
- 9.3106 Screening Requirements.
- 9.3107 Implementing Provisions.
- 9.3108 Accidental Discharges.
- 9.3109 Changes in Pretreatment and Waste Discharge Requirements.

9.3101 Objective. It is the objective of the District to regulate and control the quantity and quality of discharges into the sewer system so that they will not adversely affect the various collection, transmission, treatment, discharge requirements or environmental conditions and permit the District to treat wastewater to meet requirements of the Federal government and the Tribe.

The adverse effects can include:

- A. Health and safety of personnel employed in the operation maintenance of the sewage collection, transmission, and treatment facilities.
- B. The operational cost, maintenance and durability of collection, transmission and treatment facilities.
- C. The quality of the receiving waters with respect to requirements established by the federal government through their properly designated and responsible agencies.
- D. The air quality and pollution abatement requirements established by the federal government through their properly designated and responsible agencies.
- E. Damage, deterioration, or excessive maintenance costs to sewage collection, pumping treatment or disposal facilities.

It is the general intent of the Tribe to provide collection and treatment of domestic sanitary sewage and for commercial and industrial wastewaters that do not adversely affect the objectives stated below and to provide equitable charges for the costs incurred.

9.3102 Permits. Permits to discharge into the sewerage system of the Tribe anything but domestic sewage will only be granted in accordance with, and in consideration of, the special conditions of each case, and shall be subject to reasonable rules, regulations and requirements to prevent excessive alkalinity, acidity, organic, inorganic, odor producing, toxic or other deleterious substances.

9.3103 Acceptable Wastes. Domestic Sanitary Sewage: The physical, chemical, and biological characteristics of domestic sanitary sewage shall be based on a daily composite average of the discharge and shall conform to the following limits:

<u>Waste Characteristics</u>	<u>Maximum Concentration</u>
<u>Hydrogen Ion Concentration(pH)</u>	<u>60 Milligrams/User</u>
<u>Total Dissolved Solids</u>	<u>25 Milligrams/Liter</u>
<u>Turbidity</u>	<u>1 Milligram/Liter</u>
<u>Color</u>	<u>250 Milligrams/Liter</u>
<u>Biochemical Oxygen Demand</u>	<u>250 Milligrams/Liter</u>
<u>Chemical Oxygen Demand</u>	<u>5.5-10.00</u>
<u>Suspended Solids</u>	<u>500 Milligrams/Liter</u>
<u>Settleable Solids</u>	<u>250 NTU</u>
<u>Sulfide</u>	<u>550 PCU</u>
<u>Grease</u>	<u>200 Milligrams/Liter</u>
<u>Detergent (MBAS)</u>	<u>500 Milligrams/Liter</u>
<u>Ammonia</u>	<u>300 Milligrams/Liter</u>
<u>Phosphate (Total)</u>	<u>10 Milliliters/Liter/Hour</u>
<u>Boron</u>	<u>0.5 Milligrams/Liter</u>
<u>Chloride</u>	<u>75 Milligrams/Liter</u>
<u>Sulfate</u>	<u>10 Milligrams/Liter</u>

9.3104 Prohibited Wastes. Except as provided under this Section, no person shall discharge or cause to be discharged any of the following water or wastewaters into public sewers:

A. Rainwater or Uncontaminated Water: No person shall discharge or cause to be discharged any rainwater, storm water, ground water, street drainage, subsurface drainage, yard drainage, water from yard fountains, geothermal well water, ponds or lawn sprays or any other uncontaminated water into any sewerage facility which directly or indirectly discharges to facilities owned by the Tribe. The provisions of this Section shall apply only to sanitary sewers.

B. Explosive or Flammable Substances: Any gasoline, benzine, naphtha, fuel oil, or other flammable or explosive solid, liquid, or solvent with a flash point less than one hundred degrees (100°) Fahrenheit.

C. Corrosive Materials: Any waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the District.

D. Obstructions and Interferences: Solids or viscous substances in quantities or of such size as are capable of causing obstruction to the flow in sewers, or other interferences with the proper operation of the sewerage works, such as, but not limited to, ashes, cinders, sand, rocks, gravel, mud, straw, shavings, sawdust, oil, grease, metal, glass, rags, hair, hides, wool, feathers, tar, plastics, wood, un-ground garbage, paper dishes, cups, containers, etc., either whole or ground by garbage grinder.

E. Garbage: Any garbage except properly shredded food waste from dwellings or restaurants engaged in preparation of foods and beverages for consumption. Properly shredded garbage shall contain less than five percent (5%) (dry weight basis) of material and be able to pass a three eighths inch (3/8) screen.

F. Petroleum Products: Any mineral oils, greases or products of a petroleum origin or any excessive concentrations of non-biodegradable oil, petroleum oil or refined petroleum products, or cutting oils, commonly called soluble oil, which form persistent water emulsions.

G. Suspended Solids: Any industrial process water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant. Suspended solids discharged in industrial process wastewater shall have a dimension no larger than that of a one-fourth inch (1/4) mesh.

H. Cooling Water: Uncontaminated cooling water, unless special permission has been granted by the Engineer.

I. Toxic Substances: Any waters or wastes containing a toxic or poisonous substances in sufficient quantity to injure or interfere with or create any hazard in the sewage treatment processes, effluent quality, or receiving water quality requirements to humans, animals or plant life.

J. Discharge of septic waste is prohibited. [THIS CHART IS INCOMPLETE]

The following is a partial list of toxic substances and their maximum concentration allowable by any discharge for admission into the sewerage system:

<u>Toxicant</u>	<u>Maximum Allowable Concentration</u> <u>Milligrams/Liter</u>
Aluminum	10.0

Ammonia (as nitrogen)	0.5
Antimony	0.5
Arsenic and Arsenicals	1.0
Barium	10.0
Benzine and Derivatives	0.5
Beryllium	2.0
Boron	1.0
Bromine	1.0
Cadmium	0.1
Caesium	5.0
Chlorine	5.0
Chromium (Hexavalent)	0.1
Chromium (Trivalent)	1.0
Cobalt	1.0
Copper	0.5
Cyanide and Nitrils	0.2
Fluoride	2.0
Formaldehyde	1.0
Halogenated Phenols	0.01
Hydrogen Sulfide	0.5
Iodine	5.0
Iron	10.0
Lead	0.1
Lithium	5.0
Manganese	1.0
Mercury	0.005
Molybdenum	5.0
Nickel	1.0
Phenol, Cresols and Derivatives	0.5
Rubidium	10.0
Selenium	0.5
Silver	0.05
Sulfur	20.0
Thallium	1.0
Thorium	0.5
Tin	5.0
Titanium	4.0
Toluene	5.0
Trichloroethylene	5.0
Trinitrophenol	0.5
Tungsten	50.0
Vanadium	2.5
Zinc	1.0

The maximum allowable concentration of toxic or potentially toxic materials not listed above will be determined on an individual basis. No industrial wastes shall be discharged which have a lethal toxicity as determined by a five (5) hour toxitrack test conducted by the STUD, under such rules or regulations as it shall prescribe.

J. Chemical Pesticides and Similar Toxicants: No chlorinated hydrocarbon, organo-phosphate or similar chemical compounds used as algacides, bacteriocides, fungicides, herbicides, insecticides, or pesticides shall be discharged into the sewerage system in any concentration except as specifically approved by a written permit.

K. Oxidizing and Reducing Agents: Strong oxidizing and reducing agents shall not be discharged into the sewerage system at concentrations exceeding the following concentrations except by special permit:

<u>Oxidants and Agents</u>	<u>Maximum Concentration</u>
Chlorine, Chlorine Dioxide, Potassium Permanganate, Ozone and other strong oxidants	5 Milligrams/Liter
Sulfite, Thiosulfate, Nitrate and other strong reducing agents	5 Milligrams/Liter

L. Radioactive Wastes: Radioactive wastes of any kind are prohibited. In the event of an accidental spill of any radioactive material into the sewerage system, the person responsible shall immediately notify the Director and shall be responsible for all damages caused to the Tribe's Sewerage Works as a result of the spill.

M. Non-degradable Wastes: Any water or wastes containing substances which are not amenable to treatment or which cause the treatment plant effluent to fail to meet any discharge requirements established by the Tribe or the United States Federal government.

1. Unusual concentrations of inert suspended solids.
2. Excessive discoloration.
3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment plant.
4. Unusual volume of flow or slugs. As used in this Chapter, slug shall mean any discharge of water, sewage or waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration

longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration or flow during normal dry weather operation.

N. Noxious and Malodorous Substances: Any noxious or malodorous substances which by themselves or by interaction with other wastes may create a public nuisance or hazard or make human entry into the sewers or other sewerage appurtenances extraordinarily hazardous.

O. Extreme Temperature: Any wastewater with a temperature exceeding one hundred fifty degrees (150°) Fahrenheit or a temperature lower than thirty three degrees (33°) Fahrenheit.

P. Discharges of septage or chemical toilet wastes to the District's treatment plant receiving facility are prohibited.

9.3105 Restricted Waste Discharges. Any substances in any commercial or industrial waste discharge which may result in operational costs and maintenance of sewage collection and treatment facilities in excess of that required for normal domestic sanitary sewage of waste concentration as listed in 9.3130 or with any of the prohibited waste characteristics as listed in 9.3104, and/or having an average daily flow greater than one-half of one percent (1/2%) of the average daily dry weather flow of the District shall be subject to the review and approval of the Board. The discharges shall provide any of the following restrictions as approved by the Board for acceptance of the wastewater into the sewer system:

A. Pretreatment: Pursuant to Section 307(b) of the Federal Water Pollution Control Act Amendments of 1972, as presently existing or subsequently amended, all pretreatment for incompatible pollutants discharged at each industrial plant site to the public sewer shall be consistent with the effluent guidelines published by the Environmental Protection Agency pursuant to Sections 301(b) and 304(b) of the Act.

B. Flow Control: Limitation of the volume and rate of flow discharging into the sewer system to limit and equalize extremes of flow and waste concentration.

C. Surcharge Payment: Require a payment, in an amount established by the Council to cover the added cost of handling and treating the wastes. If the District requires pretreatment or equalization of flow, the design and installation of the plants and equipment shall be subject to the review and approval of the Board and no construction of such facilities shall commence until said approval is obtained in writing.

D. Damage Caused by Discharge: When the discharge of a commercial waste causes an obstruction, damage or other impairment to the sewerage system, the Department may assess a reasonable charge against the discharger for the work required to clean or repair the facility.

E. Limitations of Discharge Quantity and Rate of Discharge: The Manager may limit the quantity and rate of any waste discharge, when in his/her judgment, the capacity of any part

of the sewerage system would be overtaxed by the discharge, or the quantity or rate of discharge would impose a disproportionate cost to the operation of the sewerage system. In addition to commercial and industrial waste discharges, the provisions of this paragraph shall apply to cooling water discharges, or other discharges from building heating, cooling or air conditioning systems. Discharge of any waste covered by this Section shall not be discharged into the sewerage system until after specific approval of the quantity and procedures proposed has been granted by the Board.

9.3106 Screening Requirements.

A. Domestic Sewage: Domestic sewage, if consisting essentially of human wastes, may be passed into sewers without screens.

B. Screening Required for Other Sewage: The Engineer may require such screening of any flow of "commercial or industrial" or other sewage as is required to protect the usefulness of the sewage system of the Tribe. Such screens shall have the equivalent to twenty (20) meshes to the linear inch, both directions. No insoluble material of such size that will not pass through the screen herein required, may be discharged or permitted to enter the sewage system of the Tribe.

9.3107 Implementing Provisions.

A. Waste Discharge Report: When required by the District, a commercial or industrial discharger shall complete and file with the District, within thirty (30) days after written notification, a waste discharge report acceptable to the District. The District may require additional information as a part of the report, if, in the opinion of the Manager, insufficient information has been reported. On written request, the Director may extend the time for filing an additional thirty (30) days. The waste discharge report shall include, but not be limited to, the nature of the process, volume, rates of flow, substances and concentrations in the waste discharge. The foregoing examples are in explanation and not in limitation of the information which the District may require. The District may, if the discharger fails to file a waste discharge report, after notice, take action in accordance with Disconnection of Service of this Ordinance.

B. Sampling Facilities: A discharger of any industrial waste shall, at his/her own expense, install a sampling manhole and metering and monitoring equipment to facilitate observation, sampling, and measurement of the discharger's waste. Such sampling facility shall be acceptable to the District for the purposes required, shall be safely located, accessible at all times, and constructed in a manner and with materials in conformance with Council regulations. These facilities shall be maintained in good condition at all times by the discharger at his/her expense. Sampling facilities shall be installed within ninety (90) days after notice by the District.

C. Notice of Violation: Whenever the Director finds that discharge of any waste is, or threatens to become a public nuisance or a violation of established requirements, including but not limited to this Ordinance, other ordinances and resolutions, he/she shall issue an order

specifying such nuisance, violations, or threatened violations, and ordering compliance within the time schedule specified therein. Noncompliance with such order shall constitute a violation of this Ordinance.

D. **Serious and Immediate Hazards:** Notwithstanding the provisions of any other section of this Ordinance, whenever in the judgment of the Director, it appears that any waste discharge is causing any condition constituting a hazard to the life, health or safety of any person, or to the sewage system, the Director is empowered to terminate water and sewer service immediately.

E. **Maintenance of Pretreatment Facilities:** Where pretreatment facilities are provided for any waters, or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense and to the satisfaction of the District.

F. **Interceptors Required:** Grease, oil and sand interceptors ("Grease Traps") shall be provided by the Owners at his/her own expense when in the opinion of the Manager they are necessary for the proper handling of liquid wastes, containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredient. All restaurants shall be required to install a Grease Trap. All Grease Traps shall be of a type and capacity currently designated by the Uniform Plumbing Code, and approved by the District. All Grease Traps shall be so located as to be readily and easily accessible for cleaning and inspection. In addition, commercial or industrial waste discharges may be required to provide holding tanks with provision for neutralization, temperature control or rate-of-discharge control to avoid slug loadings or excessive flow rates.

G. **Maintenance of Interceptors:** All grease, oil and sand interceptors shall be maintained by the owner at his/her expense, in continuously efficient operation at all times, and corrected immediately on notice of deficient operation.

H. **Measurements and Tests:** All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition, approved by the U.S. Environmental Protection Agency, of the "Standard Methods for the Examination of Water and Wastewater", or EPA Standard Procedures, and shall be determined at the control manhole provided for, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control shall be considered to be the nearest downstream manhole in the public sewer to the point at which the side sewer is connected.

I. **Special Agreements:** No statement contained in this Ordinance shall be construed as preventing any special agreement or arrangement between the District and any industrial concern whereby an industrial waste of unusual strength or character may be accepted for treatment, subject to tribal payment therefore by the industrial concern and subject to such terms and conditions as might be required by the District, provided, however, such agreement or arrangement does not violate a provision of this Ordinance or applicable federal law.

J. Right of Entry: The Director, Manager and all other duly authorized employees of the Department, bearing proper credentials and identification, shall be permitted to enter all premises served by the District for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance.

9.3108 Accidental Discharges.

A. Each discharger shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Ordinance. Where necessary, or as directed by the Department, retention basins, dikes, storage tanks or other facilities designed to eliminate, neutralize, offset or otherwise negate the effects of prohibited materials or wastes discharged in violation of this Ordinance shall be installed.

B. Dischargers shall notify the Director immediately when accidental discharges of wastes in violation of this Ordinance occur so that counter-measures may be taken by the Department to minimize damage to the sewer system, treatment plant, treatment processes and the receiving waters. Such notification will not relieve dischargers of liability for any expense, loss or damage to the sewer system, treatment, or treatment process, or for any fines or judgments imposed by the Department or any other governmental agency or court under applicable law.

C. In the event of an accidental discharge in violation of this Ordinance, the discharger shall furnish the Department, within fifteen (15) days of the date of occurrence, a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.

D. In order that employees of dischargers be more fully informed of tribal requirements, copies of this Ordinance shall be permanently posted on bulletin boards of dischargers together with such other industrial waste information and notices which may be furnished by the Department from time to time directed toward more effective water pollution control.

E. Sewer connections within the discharger's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of any substance in violation of this Ordinance.

9.3109 Changes in Pretreatment and Waste Discharge Requirements. The provisions contained in this Ordinance relating to pretreatment and to prohibited waste discharges and as to limitations and restrictions on waste discharges are subject to regulations by Tribal and Federal authorities and are subject to the terms and conditions of any National Pollution Discharge Elimination System Permit that was issued to the Tribe. Should the Tribal and Federal regulations be modified or should any National Pollution Discharge Elimination System Permit issued to the Tribe be amended, the requirements of this Ordinance shall be modified to the extent that such standards shall be immediately applicable upon the effective date

of such Tribal or Federal regulations or of the amendment to the National Pollution Elimination System Permit.

SEWER SERVICE CHARGES

Sections:

9.3110	Rates.
9.3111	Residential Users.
9.3112	Transient-Resort Users.
9.3113	Commercial and Public Agencies.
9.3114	Service Unit Rate.
9.3115	Industrial User.
9.3116	Industrial Waste Discharge Monthly Service Charge.
9.3117	Industrial Waste Charges.
9.3118	Billing and Collection.
9.3119	Collection With Other Utility Charges.

9.3110 Rates.

A. The rates set forth in this Chapter shall be the rates for all premises connected to public sewers within or under the jurisdiction and control of the Tribe. These rates shall be subject to modification and change which may be made by resolution of the Board. These rates, although stated on a monthly basis, shall be billed in accordance with Section 9.3119 below.

B. Each premises or user connected to the public sewage system shall be classified under one of the following user categories and shall be subject to the rates specified for such category. Premises or users which are susceptible to classification under two (2) or more of such user categories shall be specially classified by the District and shall be subject to rates established by the District which shall allow for a reasonable usage allocation.

9.3111 Residential Users. Residential users are defined as each living unit of single family dwelling, apartment house or mobile home. This user category shall pay a monthly service charge per living unit (one sewer service unit at the rate established by resolution) from time to time by the Board.

9.3112 Transient-Resort Users. Transient-resort users are defined as premises which offer units for occupancy on a transient basis, such as motels, and premises which offer units for occupancy on a combined permanent and transient basis. This user category shall pay a monthly service charge as specified for commercial users based on water used during a typical winter month. Average water consumption for a typical winter month shall be established by the Director from available water usage records.

9.3113 Commercial and Public Agencies.

A. All commercial establishments, public utilities, and public agency facilities shall be on a rate per service unit established by Resolution. There shall be a minimum charge of one service unit for each water meter unless it can be shown that a particular meter is used exclusively for irrigation water, in which case there shall be no service charge.

B. If a sewer connection receives its water from other than a metered domestic water system, such as the a water district or company, the water use must be metered, unless another method of determining water or sewage usage is approved by the Engineer.

C. The following designated water metered commercial, public utilities, and public agency facilities premises shall be charged the service unit rate for the number of service units of metered water used during a typical winter month and computed on the following basis:

<u>SIC</u>	<u>USER</u>	<u>ONE SEWER SERVICE UNIT PER</u>
05812	Casinos Restaurants	6,600 average gallons per month or any fraction thereof
07261	Mortuaries	
05411	Markets	6,600 average gallons per month or any fraction thereof
05541	Service stations	7,200 average gallons per month or any fraction thereof
07011	Motel/hotel	7,800 average gallons per month or any fraction thereof
08062	Hospital	
Various/ Misc.	Commercial, office, fairgrounds, public and private schools, nursery schools, and all other users not specifically listed	

9.3114 Service Unit Rate. The following commercial premises shall be charged the service unit rate for the number of service units of metered water used during an average month determined over a twelve (12) month period:

<u>SIC</u>	<u>USER</u>	<u>ONE SEWER SERVICE UNIT PER</u>
05812	Casinos Restaurants & Bars	3,000 average gallons per month or any fraction thereof
07261	Mortuaries	3,300 average gallons per month or any fraction thereof
05411	Markets	3,600 average gallons per month or any fraction thereof
05541	Service stations	6,600 average gallons per month or any fraction thereof
07011	Motel/hotel	7,200 average gallons per month or any fraction thereof
Various/ Misc.	Commercial, office, fairgrounds, public and private schools, nursery schools, and all other users not specifically listed.	7,800 average gallons per month or any fraction thereof

9.3114 Service Unit Rate Continued. The following commercial premises shall be charged the service unit rate for the number of service units of metered water used during an average month determined over a twelve (12) month period:

<u>SIC</u>	<u>USER</u>	<u>ONE SEWER SERVICE UNIT PER</u>
07211	Laundries	5,400 average gallons per month or any fraction thereof
07211	Laundromats	7,800 average gallons per month or any fraction thereof

9.3115 Industrial User. Any nongovernmental user of publicly owned treatment works, as listed below, may be excluded if it is determined that the user will introduce primarily segregated domestic wastes or wastes from sanitary conveniences if the nongovernmental user is identified in the Standard Industrial Classification Manual, 1972, Office of Management & Budget; as amended and supplemented under the one of the following divisions:

Division A - Agriculture, forestry and fishing;

Division B - Mining;

Division D - Manufacturing;

Division E - Transportation, communication, electric, gas and sanitary;

Division I - Services.

9.3116 Industrial Waste Discharge Monthly Service Charge.

Industrial connections shall be charged such fees as the Engineer deems reasonable to pay for additional costs, including compliance with requirements for biochemical oxygen demand removal, other treatment, gallonage of flow, and any other sewage characteristics as the Engineer deems appropriate and as delineated hereinafter.

9.3117 Industrial Waste Charges. The industrial waste charges for each industry shall be determined by the following formula:

$$\text{Annual Operating Charges: Total charge per period} = (A \times V) + (B \times \text{BOD}) + (C \times \text{SS}).$$

A, B, C - unit charge rates established annually by the District calculated on the previous period's Costs of maintenance, operation, administration and depreciation based on the parameter allocations in accordance with appendix E of the Revenue Guidelines for Wastewater Dated April 1983, including any amendments or revisions.

- V = Volume of water in million gallons per period.
- BOD = Biochemical oxygen demand in pounds per period.
- SS = Total suspended solids in pounds per period.
- A = Allocated cost for each million gallons of flow.
- B = Allocated cost per pound of biochemical oxygen demand.
- C = Allocated cost per pound of total suspended solids.

Parameters V, BOD, and SS are measured at the entry point to the public sewer system. The Engineer shall set minimum requirements for sampling, analysis and flow measurement for the discharge necessary to establish quantities to be used in the above formula. All costs associated with the measuring, and sampling required by the Section shall be paid for by the discharger.

For industries where significant water used in the process leaves the site as a component of the product, the equivalent sewer service units for the domestic portion of the manufacturing facility will be determined as follows:

$$\frac{A \times B \times C}{200 \text{ gallons}} = Y$$

where:

A = Number of employees

B = Hours per shift

C = Shifts per week

Y = Equivalent sewer service units (ESSUs) (Fractions to be rounded to the nearest whole number with a minimum of 1)

200 gallons = Equivalent of the average daily usage of a residential customer based upon five (5) employees over a forty (40) hour work week.

9.3118 Billing and Collection.

A. Billing period. The regular billing period will be monthly or bimonthly at the option of the Board, except as otherwise provided in the next succeeding section.

B. Billing period for commercial/industrial users. The regular billing period for industrial or commercial users will be monthly.

C. Opening and closing bills. Opening and closing bills for less than the normal billing period shall be prorated.

D. Payment of bills. Bills for sewer service shall be mailed or delivered to each customer as soon as convenient after the first of the month following the billing period for which the bill is rendered. Bills shall be due and payable on presentation.

E. Penalties for nonpayment. In addition to the discontinuance of service as provided in this Ordinance, penalties for nonpayment of charges for sewer service shall become due on the date provided in this Ordinance below.

F. Billings of separate meters not combined. Separate bills will be rendered for each water meter installation except where the Water Department has, for its convenience installed two or more meters in place of one meter. Where such installations are made, the meter readings will be combined for billing purposes.

G. Delinquency date. Rates and charges which are not paid on or before the first day of the calendar month following the due date shall be delinquent, at which time a notice will be sent by the Board or its representative advising that the water service will be discontinued if payment is not received within thirty days.

H. Penalty on delinquent accounts. The applicable penalties for nonpayment of charges for sewer service shall become due and charged to any delinquent account.

I. Collection By Suit. As an alternative to any of the other procedures herein provided, the District may bring an action against a person or persons who occupy any premises when the service was rendered for the collection of the amount of the delinquent rate, charges, damages, penalties and costs of collection, including a reasonable attorney fee, and all costs incurred by the District or any subdivision of the Tribal government resulting from the violation of this Ordinance. The Board shall have authority to file such suits on behalf of the District in any court of competent jurisdiction. The Tribal Court shall have jurisdiction to hear all lawsuits brought to enforce the provisions of this Ordinance.

9.3119 Collection with Other Utility Charges.

A. With Utility Charges: Where the person charged is a user of another utility owned and operated by the District, or of another utility service furnished by a publicly or privately owned public utility which has agreed to collect the District's charges on behalf of the District, the charges may be billed and collected together with other charges for other utility services provided by the District.

B. Discontinuance Of Service Upon Delinquency: Upon delinquency, the other utility service shall also be discontinued until: (1) the dual charges and penalties on the dual charges and (2) the charges for re-continuance of service, have been paid in full.

C. Time: Discontinuance of service shall continue until such time as all delinquent charges are paid in full; Resumption of service shall occur as otherwise provided by ordinances and regulations of the Tribe and the District.

D. Advance Payment Without Discount: Any payment made in advance of the due date or delinquency date shall be without discount.

E. Continuance Of Penalties: Penalties shall continue to accrue during the period of nonpayment.

F. Contents Of Statement: The statement shall contain a description of the premises served or to be served, the period of the service or proposed service, the amount of the charges, and a reference to this Chapter by number and date of adoption.

G. Execution, Acknowledgment And Filing: The statement shall be executed by the person having charge of the billing and collection of such charges or his/her deputy. His/her signature shall be acknowledged. It shall be filed with the Department and the Secretary of the District at least quarterly for the purpose of allowing the District to determine if an off set is allowable.

PERMITS AND FEES

Sections:

9.3120	Permit Required.
9.3121	Work Not Requiring A Permit.
9.3122	Application For Permit.
9.3123	Compliance With Permit.
9.3124	Agreement.
9.3125	Fees - Special Connection Charges.
9.3126	Fees - Permit And Inspection Charges.
9.3127	Performance Guarantee - Public Sewer Construction.
9.3128	All Work To Be Inspected.
9.3129	Notification.
9.3130	Condemned Work.
9.3131	All Costs Paid By Owner.
9.3132	Street Excavation Permit.
9.3133	Liability.

9.3120 Permit Required. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenances or perform any work on any street lateral or building lateral without first obtaining a written permit from the Tribe and the District.

9.3121 Work Not Requiring a Permit. No permit shall be required in the case of any repair work as follows: the stopping of leaks in drains, soil, waste or vent pipe; provided, however, that should any trap, drainpipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as such new work and a permit shall be procured and inspection made as provided in this Ordinance. No permit shall be required for the cleaning of stoppages or the repairing of leaks in pipes, valves, or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

9.3122 Application for Permit.

A. Any person legally entitled to apply for and receive a permit shall make such application on forms provided by the Department for that purpose. He/she shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection with such application. The Tribe and the District may require plans, specifications or drawings and such other information as it may deem necessary.

B. If the Tribe and the District determines that the plans, specifications, drawings, descriptions and information furnished by the applicant are in compliance with the ordinances, rules and regulations of the Tribe and the District, the Department shall issue the permit applied for upon payment of the required fees as fixed under this Ordinance.

9.3123 Compliance with Permit. After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the sewerage works, the grade, materials, or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued, except with written permission from the Engineer.

9.3124 Agreement. The applicant's signature on an application for any permit shall constitute an agreement to comply with all of the provisions, terms and requirements of this and other ordinances, rules and regulations of the Tribe and the District, and with the plans and specifications he/she has filed with his/her application, if any, together with such corrections or modifications as may be made or permitted by the Tribe and the District, if any. Such agreement may be binding upon the applicant and may be altered only by the District upon the written request for the alteration from the applicant.

9.3125 Special Connection Charges. In addition to any other charges established in this Ordinance, the District may establish special connection charges for any sewer connection when, in the opinion of the Board, the circumstances of such connection necessitate the establishment of unusual conditions or necessitate the payment of charges over and above those established in this Ordinance.

9.3126 Permit and Inspection Charges.

A. Single Family Units, Multiple Dwellings, Commercial, Industrial, Public and Other Uses: The schedule of charges for the inspection of all side sewers, lateral sewers, house and trunk and main sewers, shall be in accordance with the requirements contained in a resolution adopted by the Board, as presently existing or as subsequently amended.

B. Alteration of Existing Sewer Installation: A permit fee shall be paid to the District for issuing a permit and inspecting any work adding to, altering, or extending an existing building sewer installation. When a permit has been obtained to connect an existing building or existing work to the public sewer or to connect to a new private disposal facility, backfilling of private sewage disposal facilities abandoned as a consequence of such connection shall be included in the permit.

C. Failure to Obtain Permit: Any person who shall commence any work for which a permit is required by this Ordinance without first having obtained such permit shall, if subsequently permitted to obtain a permit, pay double the permit fee plus one hundred dollars (\$100.00) for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Manager that such work was urgently necessary and that it was not practical to obtain a permit therefore before the commencement of the work. In all such cases, a permit must be obtained as soon as it is practical to do so and if there be an unreasonable delay in obtaining such permit, a fine as described in Section 9.3126 of this Ordinance shall be charged.

9.3127 Performance Guarantee. Public Sewer Construction. The applicant shall post a surety bond, cash or other security satisfactory to the District to guarantee the faithful performance of any agreement for public main extension entered into with the Board. Said surety bond, cash or security shall be in the sum of one hundred percent (100%) of the estimated costs of the work, or in such other sum as may be fixed by the Board, and shall be in addition to guaranteeing the faithful performance of the work, guarantee the maintenance of the sewer main for a period of one year following the completion and acceptance of the work by the District.

9.3128 All Work to Be Inspected.

A. All sewer construction work shall be inspected by the Engineer and/or tribal Building Inspector to insure compliance with all requirements of the District. No sewer shall be covered at any point until it has been inspected and passed for acceptance. No sewer shall be connected to the District's public sewer until the work covered by the permit has been completed, inspected and approved by the Engineer and/or Inspector. If the test proves satisfactory and the sewer has been cleaned of all debris accumulated from construction operations, the Engineer shall issue a certificate of satisfactory completion.

B. For public sewer construction, the owner or owners and/or contractor shall deposit with the Director a sum to be fixed by the Engineer prior to commencement of work. Said sum shall be estimated to equal the cost of inspecting said work and other expenses regularly incurred in connection therewith. The amount to be charged for inspection shall be on a lineal footage basis on all lines of six inch (6") diameter or more and a flat fee for four inch (4") street laterals established by resolution adopted by the Board. Should the amount of the deposit be insufficient to pay such costs incurred by the District, the owner or owners and/or contractor shall advance such additional sums as shall be necessary to pay said costs prior to the final inspection of the work.

9.3129 Notification. It shall be the duty of the person doing the work authorized by permit to notify the office of the Manager in writing that said work is ready for inspection. Such notification shall be given not less than twenty four (24) hours, Saturdays, Sundays and Holidays excluded, before the work is ready to be inspected. It shall be the duty of the person doing the work to make sure that the work will stand the tests required by the District before giving the above notification.

9.3130 Condemned Work. When any work has been inspected and the work condemned and no certification of satisfactory completion given, a written notice to that effect shall be given instructing the owner of the premises, or the agent of such owner, to repair the sewer or other work authorized by the permit in accordance with the ordinances, rules and regulations of the Tribe and the District.

9.3131 All Costs Paid by Owner. All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued shall be borne by the owner. The owner shall indemnify the Tribe and the District from any loss or damage that may directly or indirectly be occasioned by the work.

9.3132 Street Excavation Permit. A separate encroachment permit must be procured from the Tribe, the District or any other political subdivision or public agency having jurisdiction over the premises to be served, by the owners or contractors intending to excavate in a public street for the purpose of installing sewers or making sewer connections.

9.3133 Liability. The Tribe and the District and its officers, agents and employees shall not be answerable for any liability or injury or death to any person or damage to any property arising during or growing out of the performance of any work by such applicant. The applicant shall be answerable for, and shall save the Tribe and the District and its officers, agents and employees harmless from any liability imposed by law upon the Tribe and the District or its officers, agents or employees, including all costs, expenses, fees and interest incurred in defending same or in seeking to enforce this provision. Applicant shall be solely liable for any defects in the performance of his/her work or any failure which may develop in the Sewerage Works from his/her work.

OUTSIDE SEWERS

Sections:

- 9.3134 Exemption of Public District Upon Contract.
- 9.3135 Special Outside Agreements.

9.3134 Exemption of Public District Upon Contract. Any public district or company which desires to connect to the Tribe's sewer system for disposal of the sewage of such public district, shall enter into a contract with the District providing for the regulation of such connection and the use thereof by such district and the charges to be paid to the District by such district. The public district shall adopt limitations on sewage quality and infiltration and inflow comparable to those enacted in this Ordinance. No public district may connect to the Tribe's sewer system other than pursuant to such a contract. Upon the execution of any such contract, such public district shall be exempt from the provisions of this Chapter.

9.3135 Special Outside Agreements. Where special conditions exist relating to any outside sewer, they shall be the subject of a special contract between the applicant and the District, and applicant shall be charged for sewage service in the same degree and manner as others now within the Reservation.

ENFORCEMENT

Sections:

- 9.3136 Penalty.
- 9.3137 Violations.
- 9.3138 Public Nuisance.
- 9.3139 Disconnection.
- 9.3140 Public Nuisance Abatement.
- 9.3141 Means of Enforcement Only.
- 9.3142 Liability for Violation.

9.3136 Penal. Any person who violates the provisions of this Ordinance shall be punishable by a civil fine of not to exceed one thousand dollars (\$ 1,000.00), for each violation. Each and every connection or occupancy in violation of the ordinances, rules and regulations of the Tribe and the District shall be deemed a separate violation and each and every day or part of a day a violation under this Ordinance, rule or regulation continues shall be deemed a separate offense under this Ordinance and shall be punishable as such.

9.3137 Violations. Any person found to be violating any provision of this Ordinance or any other ordinance, rule or regulation of the Tribe and the District regulating its sewer system shall be given written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. Said time limit shall be not less than twenty four (24) hours nor more than ten (10) working days. The offender shall, within the period of time stated in such notice, permanently cease all violations. All persons shall be held strictly responsible for any and all acts of agents or employees done under the provisions of this or any other Ordinance, rule or regulation of the Tribe and the District. Upon being notified by the Director of any defect arising in any sewer or of any violation of this Ordinance, the person or persons engaging in the illegal conduct shall immediately cease or if the illegal conduct can be corrected, correct the same and violations not ceased or corrected within the time stated in such notice shall be cause for the Director to institute whatever enforcement means or combination therefore he/she deems proper, as provided in this Ordinance.

9.3138 Public Nuisance. Continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this or any other Ordinance, rule or regulation of the Tribe and the District is hereby prohibited and shall constitute a public nuisance. The District may cause proceedings to be brought for the abatement of the occupancy of the building during the period of such violation.

9.3139 Disconnection. For violation of § 9.397 of this Ordinance an immediate disconnection may be made. As a further method of enforcing the provisions of this or any other Ordinance, rule or regulation of the Tribe and the District, the Director shall have the power to disconnect the user or subdivision sewer system from the sewer mains of the Tribe. Upon disconnection the Director shall estimate the cost of disconnection from and reconnection to the system, and such user shall deposit the cost, as estimated, of disconnection and reconnection before such user is reconnected to the system. Where appropriate, the District shall have the power to disconnect the user or subdivision from the water system of the Tribe. The District shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection.

9.3140 Public Nuisance Abatement. During the period of such disconnection, habitation of such premises by human beings shall constitute a public nuisance, whereupon the District shall cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such disconnection. In such event, and as a condition of reconnection, there is to be paid to the District a reasonable attorney's fee and costs arising from said action.

9.3141 Means of Enforcement Only. The Tribe or District hereby declares that the provisions of herein are established as a means of enforcement of the terms and conditions of its Ordinances, rules and regulations, and not as a penalty.

9.3.142 Liability for Violation. Any person violating any provision of this Ordinance or regulations adopted by the Board or the Council pursuant to this Ordinance, shall hold the Tribe and the District harmless from and defend the Tribe and the District against any liability, claim, loss or damage occasioned by the Tribe or the District by reason of such violation.

FEEES FOR CONNECTION TO AND IMPROVEMENT OF SANITARY SEWER SYSTEM

Sections:

- 9.3143 Sewer Connection Charges.
- 9.3144 Use of Funds.
- 9.3145 Sewer Connection and Improvement Fees; Time of Payment.
- 9.3146 Credit for Installation of Larger Than Required Lines.
- 9.3147 Benefit Areas.

9.3143 Sewer Connection Charges. The charges for the connection of the plumbing of any building or structure for residential, commercial or industrial purposes which discharges to the sanitary sewer system of the Tribe shall be established from time to time by a written resolution adopted by the Board.

9.3144 Use of Funds. Sewer improvement fees shall be used only to provide funds for the enlargement of main trunk, interceptor line and sewage treatment facilities.

9.3145 Sewer Connection and Improvement Fees; Time of Payment. The fees set forth above shall be due and payable prior to use and occupancy of the new facility requiring the service, but in no event later than sixty (60) days after a building permit is issued for the project. Permanent sewer service shall not be provided until payment is received.

9.3146 Credit for Installation of Larger than Required Lines. Where a developer installs main trunk, interceptor, or other sewer lines larger than required for his/her development, he/she shall be allowed a credit based on the difference between the line required by his/her development and the greater size of the line required by the Engineer at unit prices established by the District for the cost of installation of such lines for subdivision bond purposes. District may, at its option either pay the developer in cash for the difference or agree to reimburse the developer for future main trunk, interceptor, and other sewer line fees collected for attaching to the installed main trunk, interceptor, and other sewer lines as they are connected.

9.3147 Benefit Areas. When, in order to serve a development, it is necessary that a sewer line be placed outside the boundaries of the development and where such sewer line shall serve other premises, a benefit area shall be delineated of the properties which may be served from such sewer line, and the District shall require a payment as a condition to connecting

to such sewer line, said payment shall be the cost of the installation outside the development, multiplied by a fraction, the numerator of which shall be the front footage of the parcel connecting to such sewer line, and the denominator of which shall be the total frontage of the area benefited by such sewer line. Where the cost of a line installed in a benefit area is borne by the developer, the District shall collect and remit to the developer those connection fees levied against other benefiting premises and received within five (5) years from the acceptance of said sewer line by the District

EXEMPTIONS

Sections:

9.3148 Exemption of Public District Upon Contract

9.3148 Exemption of Public District upon Contract. The Tribe and any public district or company which desires to connect to the Tribe's sewer system for disposal of the sewage of such public district, shall enter into a contract providing for the regulation of such connection and the use thereof by such district and the charge or charges to be paid to the District by such district. No public district may connect to the Tribe's sewer system otherwise than pursuant to such a contract. Upon the execution of any such contract, such public district shall be exempt from the provisions of this Ordinance, if, after review by the Director, it is determined that the standards of the district meet or exceed the standards set forth in this Ordinance.

ADMINISTRATI ON

Sections:

- 9.3149 Director to Administer and Enforce Ordinance.
- 9.3150 Disconnection After Notices; Summary Abatement.
- 9.3151 Re-establishment; Costs; Bond to Insure Compliance.
- 9.3152 Statements.
- 9.3153 Statement not Conclusive; Audit Authorized.
- 9.3154 Information Confidential.
- 9.3155 Appeals..

9.3149 Director to Administer and Enforce Ordinance. The Director shall be charged with the administration of the sewer system of the Tribe and with enforcement of all of the provisions of this Ordinance.

9.3150 Disconnection after Notices; Summary Abatement. In the event of a violation of any terms of this Ordinance, or any rule or regulation established pursuant to this Ordinance, the Director, or his/her designated agent, in writing shall notify the person or persons causing, allowing or committing such violation, specifying the violation and the time after which (upon the failure of such person or persons to prevent or rectify the violation) the Director or his/her authorized agent will exercise his authority to disconnect the premises served by the sewer system. The notice time shall not be less than five (5) days after the deposit of such notice in the United States mail, addressed to the person or persons to whom notice is given. In the event such violation results in a public hazard or menace, then the Director or his/her designated agent may enter upon the premises without notice and do such things and expend such sums as may be necessary to abate such hazard, and the reasonable value of the things done and the amounts expended in so doing shall be charged to and paid for by the owner or person who committed the violation.

9.3151 Re-establishment; Costs; Bond to Insure Compliance. When service has been disconnected as provided in this Ordinance, the Director may require that the person or persons who request that such service be reestablished furnish a bond in the sum of not to exceed five hundred dollars (\$500.00) payable to the District, and conditioned upon compliance with the provisions of this Ordinance, before granting permission to make such connection. Before such service will be re-established, the person or persons making application for such re-establishment of service shall pay all expenses incurred by the District in causing such disconnection and in reestablishing such connection.

9.3152 Statements. The Director, or his/her authorized agent, may require of any person or persons who apply for connection to, or whose premises are connected with, the sewer system, the filing of a statement or affidavit for the guidance of the Director, or his/her authorized agent and the District in ascertaining the amount of the service charge payable under this Chapter, which statement or affidavit shall contain such information as may be required; and a failure of such person or persons to file such statement or affidavit containing the information requested or required shall be deemed a violation of this Ordinance.

9.3153 Statement Not Conclusive; Audit Authorized. No statement or affidavit required by § 9.3152 shall be conclusive as to the matters set forth in such statement or affidavit, nor shall the filing of the same preclude the District from collecting by appropriate action such sum as is actually due and payable under the provisions of this Ordinance. Such statement or affidavit, and each of the several items contained in such statement or affidavit, shall be subject to audit and verification by the Secretary of the Board, or authorized employees of the District, who are duly authorized to examine, audit, and inspect such books and records of such person or persons as may be necessary in their judgment to verify or ascertain the amount of the monthly service charge. All persons using or making application for use of the sewer system of the Tribe are required to permit an examination of such books and records for the purposes set forth in this Section.

9.3154 Information Confidential. The information furnished or secured pursuant to § 9.3152 or § 9.3153 shall be confidential and any unwarranted disclosure or use of such information by any officer or employee of the District shall constitute a misdemeanor, and such officer or employee shall be subject to the penalty provisions of this Chapter for violation of this Section.

9.3155 Appeals.

A. Any person who shall be dissatisfied with any determination made pursuant to these Sections by the Director or his/her authorized agent, may, at any time within thirty (30) days after any such determination by said Director or his/her authorized agent, appeal to the Board by giving written notice to the Secretary of the Board, or his/her authorized agent, setting forth the determination with which such person is dissatisfied. The Board may, at any time, upon its own motion appeal from any determination made by the Director, or his/her authorized agent, hereunder. In the event of any such appeal, the Director, or his authorized agent, shall transmit to the Board a report upon the matter appealed. The Board shall cause notice to be given, at least ten (10) days prior to the time fixed for such hearing, to all persons affected by such appeal, of the time and place fixed by the Board for hearing such appeal. The Board shall direct the Secretary to mail a written notice postage prepaid, to all such persons whose addresses are known to the Board at least five (5) days prior to the date fixed for such hearing. The decision of the Board shall be final and non-appealable.

B. Pending a decision upon any appeal relative to the amount of any charges under this Ordinance, the person making such an appeal shall pay such charge. After the appeal is heard the Board shall order refunded to the person making such appeal such amount, if any, as the Board shall determine should be refunded.

SEWER FUND

Sections:

9.3156 Sewer Fund; Purposes

9.3156 Sewer Fund Purposes. All monies received by the District pursuant to any provision of this Ordinance, except sewer connection charges and monthly service fees, shall be deposited in a fund to be known as the "Sewer Fund" and shall be used for the following purposes and none other:

A. First: Improvement and construction of the sewage disposal system of the Tribe, including sewage treatment plant, sewage digestion tank, sludge tank, screens, pumping equipment, sewer ponds or drying beds, together with outfall sewer for "domestic sewage", "commercial and industrial sewage" and "processing wastes", sewer pipelines and appurtenances, lands, easements, rights of way and other works, property or structures necessary or convenient for the sewage disposal.

B. Second: To the repair, maintenance or extension of, or additions to, the sewer system, including the sewer lines, of the Tribe.

C. Third: To pay the principal and interest of sewer revenue bonds or other bonds hereafter issued for the acquisition, construction, improving and financing of the Tribe's sewerage system as the Council shall determine.

CREDIT

Sections:

- 9.3157 Establishment and maintenance of credit.
- 9.3158 Application of deposit to water bill.
- 9.3159 Interest on deposit.
- 9.3160 Return of deposit.
- 9.3161 Inability to return deposit--Transfer to general fund.

9.3157 Establishment and maintenance of credit. The Board may require a security deposit of each applicant for sewer service, either from persons receiving sewer service or from the owners of the premises or property to which, or in connection with which, sewer service is rendered.

9.3158 Application of deposit to sewer bill. The District may apply, without notice, the amount of any deposit prescribed in this Chapter toward the payment of any sewer bill or other indebtedness which may become past due and owing the District and to unpaid bills for sewer service when such service has been discontinued.

9.3159 Interest on deposit. No interest shall be paid on any deposit made with the Board pursuant to the provisions of the District's rules, regulations and this Ordinance.

9.3160 Return of deposit. The deposit made by any applicant or property owner may be refunded as follows:

A. Upon discontinuance of service, the Board shall refund any balance of the customer's deposit in excess of any unpaid bills or other indebtedness to the District.

B. The customer's deposit may be refunded to the person making the deposit after one year at the discretion of the Board.

9.3161 Inability to return deposit--Transfer to general fund. Should the customer entitled to the refund of a deposit be unavailable at the time the refund is to be made, and should the Board be unable to locate said customer for a period of one year following discontinuance of the customer's sewer service, or by the thirtieth day of June which is at least nine months thereafter, whichever shall first occur, the amount of said deposit shall be transferred to the general fund of the District and may be used for any purpose by the Board. Should the customer demand a refund at any time within four years after discontinuance of sewer service, and establish his/her right to such refund, the Board shall make such refund either from the original deposit or, in the event the deposit has been transferred to the general fund in accordance with the provisions of this section, shall make such refund from the general fund of the District. Should the customer make no claim for refund within four years after discontinuance of sewer service, the customer shall have no right to such refund.

MISCELLANEOUS PROVISIONS

Sections:

- 9.3162 Protection from Damage.
- 9.3163 Powers and Authorities of Inspectors.
- 9.3164 Severability.

9.3162 Protection from Damage. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure; appurtenance or equipment which is a part, of the Tribe's sewerage works. Any person violating this provision shall be subject to all the penalties provided for by applicable law.

9.3163 Powers and Authorities of Inspectors. The officers and any duly authorized employees of the District shall carry evidence establishing their position as authorized representatives of the District and upon exhibiting the proper credentials and identification shall be permitted to enter in any and upon any and all buildings, industrial facilities and properties for the purpose of inspection, re-inspection, observation, measurement, sampling, testing, and otherwise performing such duties as may be necessary in the enforcement of the provisions of this Ordinance, the ordinances, rules and regulations of the Tribe and the District. All plumbers shall be held strictly responsible for any and all acts of agents or employees done under this Ordinance. Upon being notified by the Director of any defect arising from said acts in any sewer or of any violation of this Ordinance, the person or persons having charge of said work shall immediately correct the same.

9.3164 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance or the application of this Ordinance to any person or circumstance is for any

reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance or the application of such provision to other persons or circumstances. The Council declares that it would have passed this Ordinance or any section, subsection, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared to be unconstitutional.

WATER SERVICE

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Standards for Construction

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GENERAL PROVISIONS

- 9.3165 Short title.
- 9.3166 Water system.
- 9.3167 Uniformity of application.
- 9.3168 Severability.
- 9.3169 Penalty for violation.
- 9.3170 Relief on application.
- 9.3171 Relief on own motion.
- 9.3172 Oaths.

9.3165 Short title. This Title shall be known and may be cited as the Hopland Water Service Ordinance.

9.3166 Water system. Water service shall be provided by the Tribe through the District. The Water System shall include, but not be limited to, all meters, water reservoirs, wells, tanks, pumps, pipes, lines, treatment plants improvements, buildings, systems, facilities and other structures, or works and all related appurtenances, together with all easements and all permits, licenses, water and other rights, and all personal property which may be affixed to any of the listed items or which may have been affixed or a part of any of the listed items but which may have been severed from any of the listed items, now or at any time and which is used for or useful for the obtaining, conserving, treating and supplying of water for domestic use, irrigation, or any other public or private uses, on the Reservation.

9.3167 Uniformity of application. Where provision is made for the implementation of this Ordinance by resolution, the provisions of such resolution shall apply uniformly to all persons similarly situated and affected by the implementation of this Ordinance.

9.3168 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

9.3169 Penalty for violation. For the failure of the customer to comply with all the provisions of this Ordinance or any part thereof, and any resolution fixing rates and charges and rules or regulations of the District, Board or Water Department, the customer's service shall be discontinued and water shall not be supplied to such customer until the customer shall have complied with this Ordinance, the rule or regulation, or rate or charge which the customer has violated, or in the event that the customer cannot comply with said rule or regulation, until the customer shall have satisfied the Water Department that in the future the customer will comply with this Ordinance, with all the rules and regulations established by this Ordinance and with all rates and charges of the District. In addition, the customer shall pay the District the amount established for the renewal of water service.

9.3170 Relief on application.

A. When any person, by reason of special circumstances, is of the opinion that any provision of this Ordinance or of any resolution or order of the District referred to in this Ordinance is unjust or inequitable as applied to his/her premises, he/she may make written application to the Board, stating the special circumstances, citing the provision complained of, and requesting suspension or modification of that provision as applied to his/her premises.

B. If such application is approved, the Board may, by resolution, suspend or modify the provision complained of, as applied to such premises, to be effective as of the date of the application and continuing during the period of the special circumstances.

9.3171 Relief on own motion. The Board may, on its motion, find that by reason of special circumstances any provision of this Ordinance or of any resolution or order of the District referred to in this Ordinance, should be suspended or modified as applied to a particular premise and may, by resolution, order such suspension or modification for such premises during the period of such special circumstances, or any part thereof.

9.3172 Oaths. The Director or the District ("STUD") may administer oaths and affirmations in connection with the giving of testimony at any hearing, investigation, or other matter pending before the Board under this Ordinance.

DEFINITIONS

Sections:

9.3173	Generally.
9.3174	Above primary,
9.3175	Applicant.
9.3176	Beneficial Consumptive Use.
9.3177	Board.
9.3178	Hopland Band of Porno Indians.
9.3179	Tribal Engineer
9.3180	Director.
9.3181	Commercial property.
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- 9.3192 Multiple users.
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- 9.3194 Person.
- 9.3195 Premises.
- 9.3196 Primary area.
- 9.3197 Private fire protection service.
- 9.3198 Public fire protection service.
- 9.3199 Public Utility District.
- 9.3200 Reservation.
- 9.3201 Tribal Council.
- 9.3202 Service or service connection.
- 9.3203 Water Department.
- 9.3204 Water service, regular.
- 9.3205 Water service, temporary.
- 9.3206 Water Plant Supervisor.

9.3173 Generally. The definition of terms set forth in this Chapter shall apply throughout this Ordinance.

9.3174 Above primary. "Above primary" means that portion of the Reservation where it is necessary that water be pumped through a booster pumping system in order that it be delivered to the premises of the customers.

9.3175 Applicant. "Applicant" means a person making written application for a main line extension; water service or a water subsystem within a tract of land or land assignment on the Reservation.

9.3176 Beneficial Consumptive Use. "Beneficial Consumptive Use" means the use of water for domestic and commercial purposes, specifically: drinking, bathing, sanitation, manufacture, the watering of livestock, and the leasing or sale of water off the Reservation for domestic or commercial purposes. A beneficial consumptive use shall be considered the highest and best use of the Tribe's water resources.

9.3177 Board. "Board" means the Board of Directors for the Sanel Tribal Utility District.

9.3178 Hopland Band of Pomo Indians or Tribe. "Hopland Band of Pomo Indians" or "Tribe" means the Hopland Band of Pomo Indians of the Hopland Indian Reservation.

9.3179 Tribal Engineer. "Tribal Engineer" means the registered civil engineer appointed by the Board to act as such, either on a regular or part-time basis.

9.3180 Director. "Director" means the Director of the District or his/her authorized representative.

9.3181 Commercial property. "Commercial Property" means the premises devoted primarily to the conduct of a business or trade, exclusive of property utilized for motel, hotel, mobile home park or similar residential purposes.

9.3182 Connection fee. "Connection fee" means a fee to be paid by an applicant for new water service connections determined by the Board to be an amount equal to the historic capital cost component of the water rate charged by the District.

9.3183 Control valve. "Control valve" means a valve, independent of the District's facilities, located in the customer's piping as close to the meter as practicable, the operation of which will control the entire water supply from the meter.

9.3184 Cross-connection. "Cross-connection" means any physical or potential connection between the piping system from the District's service and that of any other water supply whereby water from the unapproved source may be forced or drawn into the District's distribution mains or system.

9.3185 Curb stop. "Curb stop" means a valve between the distribution main and the meter for the use of the District in controlling the water supply to a customer.

9.3186 Distribution main. "Distribution main" means water lines located in streets, roads, rights of way and easements that are used for fire protection and for the general distribution of water.

9.3187 Domestic property. "Domestic property" means premises used for residential purposes, including such residential uses as are excluded, by definition, from commercial property.

9.3188 Domestic service. "Domestic service" means the supplying of water for residential purposes.

9.3189 Dwelling. "Dwelling" means a means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others.

9.3190 Extensions. "Extensions" means the addition of distribution mains, exclusive of service connections, beyond existing facilities.

9.3191 Maintenance bond. "Maintenance bond" shall mean a bond furnished by the subdivider or contractor to the Tribe for a one-year period (minimum), to cover the cost of repairs resulting from defects in materials and workmanship of public improvements installed by the subdivider or his contractor.

9.3192 Multiple users. "Multiple users" means water service and facilities rendered for separate houses, buildings, living or business quarters, such as motels, mobile home parks, commercial and shopping centers, under single control or management, and/or located on a single premises.

9.3193 Owner. "Owner" means the person(s) owning the fee, or the person(s) in whose name the legal title to the property appears, by deed duly recorded in the County Recorder's office or the person(s) in possession of the property or buildings under a land assignment or lease approved by the Tribal Council, or exercising acts of ownership over any of the above as executor, administrator, guardian or trustee of the owner(s).

9.3194 Person. "Person" means an individual, company, association, co-partnership, public or private corporation, or any group acting in combination as a unit or any Tribe, provided, however, that the term shall not include the Hopland Band of Pomo Indians.

9.3195 Premises. "Premises" means a lot or parcel of real property under fee or non-trust ownership, or an assignment or lease of Tribal land approved by the Hopland Tribal Council.

9.3196 Primary area. "Primary area" means that portion of the Reservation wherein water need not pass through a booster pumping system in order that it be delivered to the premises of the customers.

9.3197 Private fire protection service. "Private fire protection service" means water service and facilities for building sprinkler systems, hydrants, hose reels and other facilities installed in private dwellings or buildings for fire protection and the water available for fire protection, excepting house service connections and appurtenances to those connections.

9.3198 Public fire protection service. "Public fire protection service" means the service and facilities of the entire water supply, storage and distribution system of the Tribe, including the fire hydrants affixed thereto, and the water available for fire protection, excepting house service connections and appurtenances to those connections.

9.3199 Public Utility District or District. "Public Utility District" or "District" means the Sane] Tribal Utility District or "STUD".

9.3200 Reservation. "Reservation" means the Hopland Indian Reservation.

9.3201 Tribal Council. "Tribal Council" or "Council" means the Hopland Tribal Council.

9.3202 Service or service connection. "Service" or "service connection" means the pipeline and appurtenant facilities such as the street edge, curb stop, meter and meter box, all used to extend water service from a distribution main to premises. Where services are divided at

the street edge, curb or property line to serve several customers, each such branch service shall be termed a separate service and each shall be separately metered.

9.3203 Water Department. "Water Department" means the department of the District which administers the Hopland water system, which department is staffed by the Director and other persons designated by the Board to perform functions related to water service within the boundaries of the Hopland Reservation.

9.3204 Water service, regular. "Regular water service" means water service and facilities rendered for normal domestic, commercial or industrial purposes on a permanent basis, and the water available therefore.

9.3205 Water service, temporary. "Temporary water service" means water service and facilities rendered for construction work and other uses of limited duration, and the water available therefore.

9.3206 Water Plant Manager. "Water Plant Manager" or "Manager" means that person appointed by the Board to operate the Water Department and Water system, as defined in 9.3166 above, and otherwise perform the duties required by this Ordinance.

WATER DEPARTMENT

Sections:

9.3207 Creation.

9.3207 Creation. A water department is created as part of the District, consisting of a Water Plant Manager and such other personnel as the Board may designate from time to time by resolution.

APPLICATION FOR WATER SERVICE

Sections:

9.3208	Application--Required.
9.3209	Application--Contents.
9.3210	Undertaking of applicant.
9.3211	Payment for previous service.
9.3212	Installation of service.
9.3213	Location of facilities.
9.3214	Expiration of application.
9.3215	Refund of fees

9.3208 Application-Required. Each applicant for regular water service shall be required to sign an application form provided by the Water Plant Manager and approved by the Board.

9.3209 Application--Contents. Each application shall set forth the following:

- A. Date of application;
- B. Name of applicant;
- C. Street address of property, if applicable, to be served;
- D. The assessor's parcel number, lot number, assignment number or lease number of the property to be served;
- E. Address to which bills shall be mailed;
- F. Applicant's relation to the property owner, tenant, lessee, assignee, agent or builder;
- G. Applicant's signature and agreement to abide by this Ordinance or any Tribal regulations or resolutions issued pursuant to this Ordinance or other Tribal regulations or resolutions and to promptly pay any bills;
- H. Owner's, lessee's, assignee's or occupant's name and address on the recorded deed, lease, assignment or permit, if different from that of applicant;
- I. Purpose for which the service is intended - domestic, commercial, industrial, or other (identify);
- J. If application is for an existing structure(s) or for new construction:
- K. Owner's, lessee's, assignee's or occupant's agreement to observe this Ordinance or any regulations or resolutions issued, pursuant thereto and to pay bills promptly (if different from applicant); and
- L. Payment in the amount of deposit required under this Ordinance.

9.3210 Undertaking of applicant. Such application will signify the customer's willingness and intention to comply with this and other ordinances, resolutions, rules or regulations relating to regular water service and to make payment for water service.

9.3211 Payment for previous service. No application for service shall be honored unless payment in full has been made for service previously rendered to the applicant by the District. Water service to a particular premises or dwelling shall not be resumed unless payment in full has been made for water service previously rendered to such premises or dwelling.

9.3212 Installation of service. Where no connection exists, installation of a new service connection and meter shall be completed by the Water Department following receipt of the completed application and the connection fee and any other applicable charges.

9.3213 Location of facilities. Regular water service will be installed at the location determined by the Water Department. Service installations will be made only to property, premises or dwellings fronting on a main line in public streets or on such distribution mains as may be constructed in rights of way or easements. The installation of such facilities may be required by the Water Department to be completed at the front property line, unless existing physical conditions warrant locating such facilities otherwise as the Water Department may determine.

9.3214 Expiration of application. Every application for new service shall expire and become void if the water meter requested in the application is not installed (i.e., the applicant has not provided the Water Department access to the premises to which the application applies to install the meter) within one hundred days from the date of the application. The applicant may apply in writing to the Board for an extension of time not to exceed sixty (60) days. The fees and charges paid by the applicant shall be refunded if the application expires, less applicable administrative costs to be established by resolution of the Board and any other costs and expenses incurred by the District or Department.

9.3215 Refund of fees. An applicant may request in writing to the Supervisor to withdraw his/her application anytime within one hundred days from the date of the application. All fees and charges paid by applicant shall be refundable, less actual costs and expenses, including labor, incurred by the District in processing the application.

WATER MAIN EXTENSIONS

Sections:

- 9.3216 General.
- 9.3217 Application for main extension.
- 9.3218 Terms and conditions.

- 9.3219 Deposit.
- 9.3220 Specifications and construction.
- 9.3221 Maintenance bond.
- 9.3222 Main extensions--Property- of the Tribe.
- 9.3223 Fees and deposits--Environmental quality.
- 9.3224 Deposit of fees and costs.
- 9.3225 Preliminary Title report, easements.
- 9.3226 Title insurance, other real property.
- 9.3227 Application for meter.
- 9.3228 Reimbursement agreement.
- 9.3229 Special reimbursement agreements.

9.3216 General. Where an extension of the distribution mains is necessary or a substantial investment is required to furnish service to any parcel, premises or dwelling, the applicant will be informed by the Water Department whether service can be extended under the Board's rules, regulations and ordinances.

9.3217 Application for main extension. Each application shall set forth the following:

- A. Date of application;
- B. Name and address of applicant;
- C. Street address of property, parcel or premises;
- D. Assessor's parcel number, lease number, lot number or assignment number of the property;
- E. Applicant's relation to the parcel, premises or property as owner, tenant, lessee, assignee, agent or builder;
- F. Applicant's and owner's signature and agreement to observe Tribal ordinances, regulations and resolutions;
- G. Property owner's, lessee's or assignee's name and address if different from that of applicant;
- H. Type of service required - domestic, commercial, industrial or other (identify);
and
- I. Payment in the amount of deposit required under this Ordinance.

9.3218 Terms and conditions. Any extensions of tribal water mains to service new customers shall be in accordance with this Chapter and under the terms and conditions to be established by the Board.

9.3219 Deposit. Applicants for main extensions shall be required to deposit with the Board, before construction is commenced, cash or surety bonds approved by the Board covering the estimated reasonable total installed cost of the necessary facilities, exclusive of meters, as estimated by the Tribal Engineer. The total installed cost shall include engineering, environmental, legal, inspection, reasonable overhead and other fees and costs attributable to the project in addition to the cost of labor and materials.

9.3220 Specifications and construction.

A. The size, type and quality of materials and location of the line shall be specified by the Tribal Engineer. The actual construction will be done by a licensed contractor hired by the applicant and acceptable to the Board and will be inspected by the Tribal Engineer. A detailed print of the proposed plan shall be submitted to the Board by the applicant, and the Board shall require that this print be over the signature of a licensed engineer. No acceptance of a water main extension will be made unless and until all fees for inspection and all other charges for such inspections have been paid to the Board.

B. The applicant or his/her contractor shall provide bonds and insurance as required by the Board or by such standard specifications, as shall be adopted by the Board from time to time by resolution.

C. All work shall be done in accordance with said requirements, standards or specifications.

9.3221 Maintenance bond. Before any main extension, which is installed pursuant to this Ordinance, shall be accepted by the Board, the applicant shall file, or cause to be filed, a maintenance bond guaranteeing the main extension against defects in workmanship and materials. The bond shall be in an amount determined by the Tribal Engineer but not less than twenty percent (20%) of the total cost of construction. The obligations of a maintenance bond shall be deemed fulfilled at the end of one year from the date of final acceptance of the main extension, provided that at that time the main extension is in good condition and meets the requirements of the plans and specifications. Any bond shall be approved by the Board before being accepted for filing.

9.3222 Main extensions--Property of the Tribe. All main line extensions and facilities constructed and installed pursuant to this Chapter shall become the property of the Tribe and the District.

9.3223 Fees and deposits --Environmental quality. Where the Tribe or District is the lead agency or a responsible agency for any project under the National Environmental Policy Act,

or other similar or successor acts, the person or persons beneficially interested shall deposit with the District the estimated costs of the District's preparation of materials, reports and the making of evaluations of the proposed project as estimated by the Manager. Should the amount of deposit be inadequate to meet the Tribe's/District's cost as lead agency as required by law, the District shall, prior to completion of the Manager's evaluation of the proposed project, notify the person or persons beneficially interested of the amount necessary to complete the review of the proposed project, which shall be immediately deposited with the District. Should there be a surplus remaining in the deposit following completion of the Manager's evaluation of the project, the surplus shall be returned to the person or persons making such deposit.

9.3224 Deposit of fees and costs. All administrative fees and costs, legal fees and costs and engineering fees and costs incurred by the Tribe/District in relation to the proposed facilities shall be paid by the applicant. For this purpose, the District shall collect in advance a minimum deposit to be established by resolution of the Board prior to commencing any preliminary review. Should the Tribe's/District's expense at any time exceed the deposit, the District shall require an additional deposit prior to proceeding with the preliminary review. Any excess will be refunded to the applicant.

9.3225 Preliminary Title report, easements. When any extension is to be constructed within easements over private property, the District shall require an applicant to furnish at the applicant's expense a preliminary title report to evidence title satisfactory to the District. Such report shall be provided prior to commencement of construction and as a condition of acceptance of the extension and the facilities by the District.

9.3226 Title insurance, other real property. Title to any property conveyed to the Tribe for the construction or otherwise in connection with water facilities shall be evidenced by a preliminary title report and title insurance in a form acceptable to the Bureau of Indian Affairs and furnished at applicant's expense.

9.3227 Application for meter. The installation of a meter shall be completed by the Water Department following receipt of the completed application for regular water service and the connection fee, cost of meter and any other applicable charges.

9.3228 Reimbursement agreement. After the cost of the water main extension has been paid by the person requesting such extension, the District shall, but not for longer than ten years after the date such extension is originally connected to the District's water system, collect from any person connecting to such extension, except the person originally installing such extension, that fraction of the cost of such extension, as approved by the Board, as the amount of lineal footage of the property, premises or parcel along such extension owned, assigned or leased by such person subsequently connecting to such extension bears to the total amount of lineal footage of the property, premises or parcel held by potential users along the extension as determined by the Board as of the time the extension is connected to the Tribe's water system. Such sums as are thus actually received by the District shall be paid by the District to the person originally making such extension, but the Board shall in no way be obligated to assure that the

person making such extension is paid the total cost thereof nor to initiate any action nor incur any expense to collect any sum to be paid such person; nor shall such refund be made from any other revenues of the District. Where more than one person contributes toward the making of the extension, such sums as are actually collected shall be refunded to such persons, pro rata, according to the amount which they severally contribute toward the cost of the extension and pursuant to the preceding formula.

9.3229 Special reimbursement agreements. Where special conditions exist, in the opinion of the Board, relating to any agreement pursuant to the immediately preceding section of this Ordinance, they shall be the subject of a special contract between the District and the person making the water main extension.

SUBDIVISIONS

Sections:

- 9.3240 Subdivisions.
- 9.3241 Application.
- 9.3242 Application--Contents.
- 9.3243 Investigation.
- 9.3244 Agreement, design and construction.
- 9.3245 Deposit before construction.
- 9.3246 Property of the District.
- 9.3247 Service connections.
- 9.3248 Meters.
- 9.3249 Further requirements.
- 9.3250 Extensions by the Board.
- 9.3251 Time limit on application.
- 9.3252 Environmental quality.

9.3240 Subdivisions. A subdivision is a tract of land consisting of five or more premises, lots, assignments, leases or parcels.

9.3241 Application. A person desiring to construct a water system for a tract of land, which he/she proposes to subdivide, shall make written application to construct a water system to the Board.

9.3242 Application-Contents. The application shall state the number of the tract, assignment, lot or lease and its location. It shall be accompanied by a copy of a map and of the plans, profiles and specifications for the street, sanitary sewer and storm drain work to be constructed.

9.3243 Investigation. Upon receiving the application, the Manager shall make an investigation of the proposed subdivision and shall report his/her findings to the Board including a recommendation as to the facilities required and the estimated cost of the proposed water system for the subdivision. The size, type and quality of materials shall be in accordance with the Board's standards and specifications in effect at the time of application.

9.3244 Agreement, design and construction.

A. A person desiring to provide a water system for a subdivision shall enter into a subdivision agreement with the Tribal Council and the District. The applicant shall have prepared, by a licensed engineer, project plans and specifications acceptable to the Tribal Council and the Board.

B. The size, type and quality of materials, and the location of the lines, shall be specified by the Tribal Engineer. The actual construction will be done by a licensed contractor hired by the applicant and acceptable to the Board, and inspected by the Tribal Engineer. The applicant shall submit a detailed print of the proposed project to the Tribal Council and the Board.

C. The applicant or his/her contractor shall provide bonds and insurance as required by the Tribal Council or any standards or specifications established from time to time by resolution of the Council.

D. All work shall be constructed in accordance with all Tribal standards and specifications.

9.3245 Deposit before construction. Applicants for main extensions to service subdivisions, tracts or housing projects shall be required to deposit with the Board before construction is commenced cash or surety bonds approved by the Board, covering the estimated reasonable total installed costs, as estimated by the Manager, of the necessary facilities exclusive of meters.

9.3246 Property the District. All water facilities shall be the property of the Tribe and shall be conveyed to the Tribe by a proper instrument in writing at or before the time the facilities are completed and before they are accepted by the Council.

9.3247 Service connections. The sub-divider shall, at his/her cost, provide and install the service connection to each dwelling, building, structure or premises in the tract, including the pipeline, curb stop, and meter box, but not including the meter.

9.3248 Meters. The applicant shall, at the time of the application for water service, pay the District's connection fee and other applicable charges in effect at the time of application, including the cost of a meter.

9.3249 Further requirements. In granting an application, the Board may make whatever further requirements or establish such conditions as the Board in its discretion determines are necessary or desirable.

9.3250 Extensions by the Board. The Board may make extensions to the facilities constructed under this Chapter without obligation to applicant.

9.3251 Time limit on application. If work under an application is not commenced and completed within the time specified in the subdivision agreement, the District may extend the time limit or may complete the work and take appropriate steps to enforce the provisions of the bond furnished by the sub-divider.

9.3252 Environmental qualm. The requirements of Section 9.3223 of this Ordinance shall be applicable under this Chapter and are incorporated by this reference.

STANDARDS FOR CONSTRUCTION

Sections:

- 9.3253 Preparation of standard specifications.
- 9.3254 Construction of water system facilities.
- 9.3255 Adoption of Uniform Codes by resolution.

9.3253 Preparation of standard specifications. The Board shall have the Tribal Engineer prepare standard specifications for the construction and installation of all water system facilities including but not limited to the: (1) depth and grade for laying water mains or pipelines; (2) size and type of pipe material used for water mains and pipelines; (3) type of meters and installation; (4) type of backflow prevention devices and installation; (5) pumps and lift stations and (6) any other water facilities needed or used to operate the water system effectively. The plans and specifications shall be reviewed annually by the Tribal Engineer and approved by the Board.

9.3254 Construction of water system facilities. All replacements or repairs and all additions to the existing water system shall be constructed in accordance with the standards and specification and uniform codes adopted by the Tribal Council pursuant to this Chapter.

9.3255 Adoption of Uniform Codes by resolution. The Tribal Council may from time to time adopt by resolution the Uniform Administrative, Building, Building Standards, Housing, Fire, Mechanical, Dangerous Building and Plumbing Codes, as promulgated and updated from time to time by the International Conference of Building Officials, the Western Fire Chiefs Association and the International Association of Plumbing and Mechanical Officials, which shall apply when adopted within the District.

GENERAL USE REGULATIONS

Sections:

- 9.3256 Supply to separate premises.
- 9.3257 Supply to multiple users.
- 9.3258 Charges to multiple users.
- 9.3259 Water waste.
- 9.3260 Owner of facilities.
- 9.3261 Responsibility for equipment on premises.
- 9.3262 Damage to water system facilities.
- 9.3263 Control valve on the customer's property.
- 9.3264 Control of backflow and cross-connections.
- 9.3265 Interruptions in service.
- 9.3266 EPA and IHS Ingress and egress.
- 9.3267 Resale of water.
- 9.3268 Health and safety--Discontinuance of service.
- 9.3269 Investigation--Right of entry.
- 9.3270 Unlawful acts.

9.3256 Supply to separate premises. No more than one dwelling or premises shall be served from each service connection, and there shall be only one service connection per dwelling or premises, except as provided for in the immediately following section.

9.3257 Supply to multiple users.

A. Separate houses, buildings, living or business quarters, such as motels, mobile home parks, apartments, commercial and shopping centers, condominiums and the like, under a single control or management and on a single premises may be served at the option of the Board, by any of the following methods:

1. Through separate service connections to each unit, provided that the pipeline system from each service is independent of the others and that they not be interconnected;
2. Through a single service connection to the entire premises;
3. In the event that any separate house, dwelling, building, living or business quarters is severed from the balance of the property or premises, the property or premises and the property or premises so severed shall be required to provide separate service connections, pursuant to the requirements of this Ordinance.

B. The Water Department may require individual service connections for each separate house, building, dwelling, living quarters or business quarters when the Board determines that such a requirement is in the best interest of the District.

9.3258 Charges to multiple users. Charges for water service to multiple users may be fixed from time to time by the Board by resolution or ordinance.

9.3259 Water waste. It is unlawful for any person to willfully or negligently use water supplied by the District, without reasonable control or supervision thereof, in such manner as to waste the same by flowing from the premises of the user onto other premises or onto the public streets or thoroughfares in excessive or unusual amounts; or to sprinkle or irrigate any yard, lawn or premises with water supplied by the District between the hours of twelve noon and five p.m., unless the water device being used is controlled by an automatic shutoff device or an individual is in immediate attendance and view; or to water any lawns with water supplied by the District except by the use of a hose held in the hand.

9.3260 Owner of facilities. All facilities installed between the main and meter outlet, including the service connection and meter, shall be and shall remain the property of the Tribe and may be maintained, repaired or replaced by the Water Department without the notification, consent or interference of the owner or occupant of the dwelling, premises or property.

9.3261 Responsibility for equipment on premises. All facilities installed by the District on private property or premises for the purpose of rendering water service shall remain the property of the District and may be maintained, repaired or replaced by the Water Department without the notification, consent or interference of the owner or occupant of the property or premises. The property owner, lessee, assignee or permittee shall use reasonable care in the protection of the facilities. No payments shall be made by the District for placing or maintaining facilities on private property.

9.3262 Damage to water system facilities. The customer shall be liable for any damage and the resultant water loss to the District's water service facilities when such damage results from causes originating at the customer's dwelling or on the customer's premises. The cost for repairing any such damage and water loss shall be paid by the customer, and the cost shall be due and payable to the District upon the Board's rendering a bill for damage and such resultant water loss.

9.3263 Control valve on the customer's property. The customer shall provide a valve on his/her side of the meter/service installation to control the flow of water to the piping on his/her property/premises. The customer shall not use the service curb stop to turn water on and off for his/her convenience.

9.3264 Control of backflow and cross-connections.

A. General. In accordance with the requirements and the regulations of the Tribe, District and the United States Environmental Protection Agency ("EPA") no water service connection to any dwelling or premises shall be installed or maintained by the District unless the public water supply is protected as required by said federal and tribal regulations and the requirements stated below.

B. Where Protection is Required. Backflow prevention devices shall be installed on the service connection to any dwelling or premises having:

- I. Access to any auxiliary water supply;
2. Any substance handled under pressure in such fashion as to permit entry into the water system;
3. Any material dangerous to health or toxic substance that might possibly be introduced into the water system;
4. Any lawn or garden sprinkling system, not installed in accordance with the Uniform Plumbing Code;
5. Any swimming pool or spa system.

C. Type of protection. In general, types of backflow prevention devices shall be required as follows:

A service connection to a dwelling or premises having an auxiliary water supply, internal pressure boosting system, or internal systems containing water of deteriorated quality shall be protected by a double check valve assembly approved by the District for that purpose.

2. A service connection to a dwelling or premises handling dangerous or toxic materials such as industrial plants, wharves, hospitals, mortuaries, etc., shall be protected by an approved reduced pressure principle backflow prevention device properly located and installed.
3. A service connection to any sewage treatment plant or sewage pumping station shall be protected by an air-gap separation properly located and installed.

D. Responsibility for Installation Inspection and Maintenance. Backflow prevention devices required by this Chapter shall be approved by the Board and shall be installed, inspected and maintained at the expense of the customer.

E. Discontinuance of service. The Board may discontinue service of water to any dwelling or premises and may physically disconnect the customer's piping from the Tribe's water distribution system if a backflow prevention device required by this Section is not installed, tested and maintained, or if any defect is found in an installed backflow prevention device, or if it is found that a backflow prevention device has been removed or bypassed or if unprotected cross connections exist on the premises; and service will not be restored until such conditions or defects are corrected. The District may test any back flow prevention device installed pursuant to this Chapter, at any time. Any device found to be defective by the District, shall be replaced by the District at the expense of the owner, lessee or tenant of the premises.

F. Right of Ingress and Egress to and from the Customer's Premises. Water Department personnel shall have the right of ingress and egress to and from the customer's dwelling or premises at all reasonable hours for any purpose reasonably related to the furnishing of water service and the exercise of any and all rights secured to it by law or these regulations, including inspection of the customer's piping and equipment as to compliance.

G. Prevention of Flow From One Service Connection Through Another. If premises are supplied by more than one water connection to the District's facilities, the customer shall be required to install an approved backflow prevention device at each service connection to prevent the backflow of water from one service through another.

H. Exception. Any installation of equipment, such as sprinkler systems, pools, spas, etc., installed in accordance with the Uniform Plumbing Code and providing backflow devices shall be exempt from this section.

9.3265 Interruptions in service. The Tribe and the District shall not be liable for damage which may result from an interruption in service. Temporary shut-downs may be made by the Water Department to make improvements and repairs. The District reserves the right to shut off the water to any dwelling or premises or to any part of the system as long as necessary and without notice to customers at any time when the exigencies of the occasion may require it. Whenever possible and as time permits, the Water Department will notify customers and other Tribal departments of the necessity of shutting off water and the probable length of time the water shall be shut off before taking such action. Any affected fire department will be notified promptly upon restoration of service.

9.3266 EPA and IHS Ingress and egress. Representatives of the United States and Tribal EPA's and Indian Health Service shall have the right of ingress and egress to the customer's dwelling or premises at reasonable hours for any purpose reasonably connected with the furnishing of water service in the exercise of any and all rights provided by law.

9.3267 Resale of water. Except by agreement with the District, no customer shall resell any of the water received by him/her from the District, nor shall such water be delivered to premises other than those specified in the application for service.

9.3268 Health and safety-Discontinuance of service. If a condition on the customer's premises is found to be hazardous to the health and safety of the public arising from the use of water, the use and maintenance of any apparatus, appliances or equipment or otherwise, the Water Department may discontinue service to such premises without notice. The Water Department in such event shall make a reasonable effort to notify the customer of the discontinuance of service, and corrective action shall be taken by the customer before service will be restored.

9.3269 Investigation--Right of entry. Any duly authorized agent of the Water Department shall have the authority to enter any building or premises for the purpose of investigating the premises or property of any applicant or consumer of water in order to determine and designate the rate to be applied to the premises or property and to view the water lines and equipment connected therewith. Except in emergency situations, such agents of the Water Department shall not enter any building, property or premises without the consent of the owner or occupant thereof, unless an investigation warrant authorizing such entry and investigation is first obtained from the Tribal Council or the Hopland Tribal Court. No person shall hinder or prevent the agents of the Water Department while in the performance of the duties described in this section from entering upon and into any and all buildings, premises or property at all reasonable hours for the purpose of inspecting the same in order to carry out the provisions of this Chapter. No person except a duly authorized agent of the Water Department shall turn the water on or off from any building, dwelling, or premises, and no person shall tap, cut, or move any water line unless permission to do so has been granted by the Water Department supplying the water.

9.3270 Unlawful acts.

A. It is unlawful for any person to do any of the following:

1. Open any street hydrant or valve or tamper with or interfere with any street service, water connection, reservoir, pumping plant, or any water meter attached to any service line connected to the mains, water lines or hydrants of the District;
2. Turn on and off water mains or water lines of the District or occupy premises the water service to which has been turned on without authorization of the Manager after having been shut off for a violation of this Ordinance or other Tribal rules or regulations; or tap, break or damage any water main, water line, meter or other fittings of the District laid in any street, easement, right of way or other public place.

- 9.3276 Change in location of meters.
- 9.3277 Meter tests.
- 9.3278 Access to meter and curb stop

9.3271 Installation. After the adoption of this Ordinance, all water service connections shall be metered. The Board shall adopt a schedule for the installation of meters for existing water services. The applicable fees and charges shall be paid to the District prior to installation of the facilities, together with any deposits required under this Ordinance. The cost of the meter shall be paid by the applicant for water service. The applicant, upon a showing of financial hardship, may pay for the meter in equal installments over a twelve month or lesser period of time with the approval of the Board. Title to the meters shall be held by the District.

9.3272 Meter installations. Meters will be installed at a location determined by the District.

9.3273 Meter readings. Meters will be read as nearly as possible on the same calendar day of each billing period.

9.3274 Non-registering meters. If a meter is found not to be registering, the charges for service shall be based on the estimated consumption. Such estimates shall be made from previous consumption for a comparable period or by such other method as is determined by the Board, and its decision shall be final.

9.3275 Meter maintenance. The District shall maintain, repair and renew all meters when such maintenance, repair or renewal is made necessary by reason of normal wear and tear.

9.3276 Change in location of meters. Meters moved for the convenience of the customer or to provide required access to the meter will be relocated at the customer's expense. Any relocation must be approved by the Manager in writing. Meters moved to protect the District's property will be moved at its expense. Meters shall be relocated only by the Water Department or under the supervision of the Water Department. This section applies only to the change in location of the meter at a single premises, and on the same parcel, lease, assignment or permit of land.

9.3277 Meter tests by the Department. All meters shall be tested by the Water Department prior to installation, and no meter will be installed which registers more than two percent fast. Upon receipt of such request and the required deposit, the Manager shall cause the meter to be tested. The customer or his/her representative may, but need not, be present during the conduct of the test.

9.3278 Access to meter and curb stop. It shall be the duty of each customer to keep the space about the meter and curb stop servicing his/her property free and clean of trash, garbage, barrels, or boxes, dirt, oil, building material, or other obstructions that may in any way

3. Tamper with, deposit, or cause to be deposited in any water main or line of the District any fluid or solid matter or substance of any kind or to do any act that might cause water to become polluted;
4. Make or add to any water connection, line, main or service not authorized by the Manager or Board;
5. Take, pump or draw water from any water main, line, or hydrant of the District without first arranging with the Water Department for the same and paying the established rate for such taking, pumping or drawing of water.

B. If an unlawful water connection, line, main, or service or water consumption is found to exist on any premises or property by the Manager, the Manager shall post in a conspicuous place on the premises or property a written notice specifying that the same are in violation of this section, giving the particulars of the violation; and if, after such notice, the violation continues for forty-eight hours without correction, the Manager shall terminate water service to the premises or property, which water service shall not again be turned on until the violation has been cured in accordance with the specifications of the Board and the charge for a renewal of service has been paid. In addition to and at the time of posting the notice, a copy of such notice shall be mailed to the person occupying the premises addressed to the address of the premises or dwelling located on the premises or, alternatively, delivered personally to the occupant.

C. All damages and costs incurred by the District or any subdivision of the Tribal government resulting from any unlawful acts as defined by this section shall be reimbursed to the District by the person or persons committing the unlawful act. In the event that any such person refuses to reimburse the District, damages and costs resulting from any such unlawful acts shall be collectable by lawsuit under the provisions of this Ordinance.

METERS

Sections:

- | | |
|--------|-------------------------|
| 9.3271 | Installation. |
| 9.3272 | Meter installations. |
| 9.3273 | Meter readings. |
| 9.3274 | Non-registering meters. |
| 9.3275 | Meter maintenance. |

interfere with the free access to the same by the employees of the Water Department at any time. If the customer fails to keep the curb stop clean, the Manager may cause notice to be given, either in writing or in person, to the owner or occupant of the dwelling, premises or property, to remove such obstruction within twenty-four hours. If the customer fails to comply with the notice, the obstruction may be removed by the Water Department and the cost thereof charged against the customer or the premises or property owner thereof, or the Water Department may remedy the obstruction as directed by the Manager including (but not limited to) movement of the meter or curb stop, and the charge therefore shall be due and payable at the same time and in the same manner and upon the same bill, together with and not separately from the other charges thereon.

CREDIT

Sections:

- 9.3279 Establishment and maintenance of credit.
- 9.3280 Application of deposit to water bill.
- 9.3281 Interest on deposit.
- 9.3282 Return of deposit.
- 9.3283 Inability to return deposit--Transfer to general fund.

9.3279 Establishment and maintenance of credit. The Board may require a security deposit of each applicant for water service, either from persons receiving water service or from the owners of the premises or property to which, or in connection with which, water service is rendered.

9.3280 Application of deposit to water bill. The District may apply, without notice, the amount of any deposit prescribed herein toward the payment of any water bill or other indebtedness which may become past due and owing the District and to unpaid bills for water service when such service has been discontinued.

9.3281 Interest on deposit. No interest shall be paid on any deposit made with the Board pursuant to the provisions of the District's rules, regulations and ordinances.

9.3282 Return of deposit. The deposit made by any applicant or property- owner may be refunded as follows:

A. Upon discontinuance of service, the Board shall refund any balance of the customer's deposit in excess of any unpaid bills or other indebtedness to the District.

B. The customer's deposit may be refunded to the person making the deposit after one year at the discretion of the Board.

9.3283 Inability to return deposit--Transfer to general fund. Should the customer entitled to the refund of a deposit be unavailable at the time the refund is to be made, and should the Board be unable to locate said customer for a period of one year following discontinuance of the customer's water service, or by the thirtieth day of June which is at least nine months thereafter, whichever shall first occur, the amount of said deposit shall be transferred to the general fund of the District and may be used for any purpose by the Board. Should the customer demand a refund at any time within four years after discontinuance of water service, and establish his/her right to such refund, the Board shall make such refund either from the original deposit or, in the event the deposit has been transferred to the general fund in accordance with the provisions of this section, shall make such refund from the general fund of the District. Should the customer make no claim for refund within four years after discontinuance of water service, the customer shall have no right to such refund.

BILLING

Section:

- 9.3284 Billing period.
- 9.3285 Billing period for industrial/agricultural users.
- 9.3286 Opening and closing bills.
- 9.3287 Payment of bills.
- 9.3288 Penalties for nonpayment.
- 9.3289 Billings of separate meters not combined.
- 9.3290 Public fire protection service charge.
- 9.3291 Collection.
- 9.3292 Delinquency date.
- 9.3293 Penalty on delinquent accounts.

9.3284 Billing period. The regular billing period will be monthly or bimonthly at the option of the Board, except as otherwise provided in the next succeeding section.

9.3285 Billing period for industrial/agricultural users. The regular billing period for industrial or agricultural users will be monthly.

9.3286 Opening and closing bills. Opening and closing bills for less than the normal billing period shall be prorated.

9.3287 Payment of bills. Bills for water service shall be mailed or delivered to each customer as soon as convenient after the first of the month following the billing period for which the bill is rendered. Bills shall be due and payable on presentation.

9.3288 Penalties for nonpayment. In addition to the discontinuance of service as provided in this Ordinance, penalties for nonpayment of charges for water service shall become due on the date provided in Section 9.3292 below.

9.3289 Billings of separate meters not combined. Separate bills will be rendered for each meter installation except where the Water Department has, for its convenience installed two or more meters in place of one meter. Where such installations are made, the meter readings will be combined for billing purposes.

9.3290 Public fire protection service charge. Bills for public fire protection service shall be rendered as the Board may provide from time to time by resolution.

9.3291 Collection. Where the property or the premises is subject to rates and charges for water service other than for fire protection, such rates and charges shall be collected, together with, and not separately from, the rates and charges for public fire protection service.

9.3292 Delinquency date. Rates and charges which are not paid on or before the first day of the calendar month following the due date shall be delinquent, at which time a notice will be sent by the Board or its representative advising that the service will be discontinued if payment is not received within thirty days.

9.3293 Penalty on delinquent accounts. The applicable penalties for nonpayment of charges for water service shall become due and charged to any delinquent account.

COLLECTION BY SUIT

Sections:

- 9.3294 Penalty.
- 9.3295 Suit.
- 9.3296 Jurisdiction of Tribal Court.

9.3294 Penalty. Rates and charges which are not paid as provided by this Ordinance and the rules and regulations adopted pursuant to this Ordinance shall be subject to the applicable penalties.

9.3295 Suit. All unpaid rates, charges, and penalties, and all damages and costs incurred by the District or any subdivision of the Tribal government resulting from the violation of this Ordinance may be collected by suit brought in the name of the District. The Manager shall have authority to file such suits on behalf of the District in any court of competent jurisdiction.

9.3296 Jurisdiction of Tribal Court. The Tribal Court shall have jurisdiction to hear all lawsuits brought to enforce the provisions of this Ordinance.

COMPLAINTS

Sections:

- 9.3297 Report and adjustment.
- 9.3298 Appeal to Board.

9.3297 Report and adjustment. Should any customer have complaints with regard to water service, such customer shall contact the Manager for adjustment.

9.3298 Appeal to Board. Should a customer be unable to have his./her complaint resolved by the Manager, or should he/she object to the Manager's decision, he/she may appeal the decision to the Board. After receipt of all necessary information the Director of the Board shall set the matter on the agenda for the next Board meeting following receipt of the information from the Manager for a decision by the Board. The Board shall hear from the customer and the Manager and shall render its decision within thirty days from the date of the hearing and its decision shall be final.

DISCONNECTION OF SERVICE

Sections:

- 9.3299 Water Department address, telephone number and hours.
- 9.3300 Mailed notices.
- 9.3301 Procedure for disputed bills.
- 9.3302 Notify health department.
- 9.3303 Notices.
- 9.3304 Additional security deposit.
- 9.3305 Conditions for restoring service.
- 9.3306 Disconnection by customer.

9.3299 Water Department address, telephone number and hours. All water bills shall contain in clear type the office address, hours and telephone number of the Water Department.

9.3300 Mailed notices. When a water bill becomes delinquent, the Manager shall mail or cause to be mailed a notice to the delinquent customer and property owner, lessee, permittee or assignee, if different from the customer, notifying the customer that water service will be disconnected if the bill is not paid within thirty days after the date of mailing. If the customer does not dispute the bill, and full payment is not received, the service shall be disconnected as provided in the notice.

9.3301 Procedure for disputed bills. If a delinquent customer disputes the correctness of the billing, the Manager shall hear and investigate the dispute and shall make adjustments as he/she deems appropriate under the circumstances. The customer may appeal the decision of the Manager to the Board whose decision shall be final. The customer shall file his/her notice of appeal with the Board within ten days after receiving notice of the Manager's decision. The Manager's decision shall be in writing and shall state the customer's right of appeal and that if the notice of appeal is not given or the customer does not appeal, the service will be disconnected without further notice. If the customer does not appeal and full payment is not received, the service shall be disconnected. If the customer does not comply with the decision of the Board and full payment is not received, the service shall be disconnected.

9.3302 Notify health department. Immediately before any service is disconnected, the Manager shall notify the County health officer of the service disconnection if the disconnection occurs on fee land located on the Reservation.

9.3303 Notices. All notices shall clearly state the office address, office hours and the telephone number of the Water Department.

9.3304 Additional security deposit. The Manager may require that a security deposit be posted, in addition to the regular deposit, with the District to guarantee payment of future water bills by the customer where the customer has previously defaulted in the payment of his/her water bill.

9.3305 Conditions for restoring service. Water service will not be restored to the disconnected property or premises until all delinquent water charges, late fees, interest charges, penalties for disconnection and required security deposits have been paid.

9.3306 Disconnection by customer. A request for disconnection of water service shall only be honored by the Manager or the Board from the customer in whose name the service was established.

PUBLIC FIRE PROTECTION

Sections:

- 9.3307 Use of fire hydrants.
- 9.3308 Penalties.

9.3307 Use of fire hydrants.

A. Fire hydrants are for use by the District or by organized fire protection agencies who have been authorized to use said hydrants by the Board. Other parties desiring to use fire hydrants for any purpose must first obtain written permission from the Water Department prior to use, and shall operate the hydrant in accordance with instructions issued by the Water Department, and they shall pay all applicable fees.

B. The cost of repairing damage to the water system caused by the improper use of any fire hydrant shall be paid by the person using the fire hydrant pursuant to § 9.3307 of this Ordinance.

9.3308 Penalties. By resolution, the Board shall from time to time establish penalties for the unauthorized use of hydrants. Unauthorized use of hydrants will be prosecuted according to law.

PRIVATE FIRE PROTECTION SERVICE

Sections:

- 9.3309 Payment of cost.
- 9.3310 No connection to other service.
- 9.3311 Use.
- 9.3312 Meter rates.
- 9.3313 Monthly rates.

9.3309 Payment of cost. The applicant for private fire protection service shall pay the total actual cost of installation of the service from the distribution main to the customer's premises or property, including the cost of a detector check, meter or other suitable and equivalent device valve and meter box, said installation to become the property of the Board.

9.3310 No connection to other service. There shall be no connections between the private fire protection system and any other water distribution system on the premises.

9.3311 Use. There shall be no water used throughout the fire protection service except to extinguish accidental fires and for testing the fire fighting equipment.

9.3312 Meter rates. Any consumption of water recorded on the meter will be charged for at applicable rates.

9.3313 Monthly rates. The rates for private fire protection service shall be applicable and shall be established from time to time by resolution of the Board.

TEMPORARY SERVICE

Sections:

- 9.3314 Deposit.
- 9.3315 Installation and operation.
- 9.3316 Rates.
- 9.3317 Credit.
- 9.3318 Duration.

9.3314 Deposit. The applicant shall deposit, in advance, the cost, estimated by the Manager, of installing and removing the facilities required to furnish temporary service, including meter, exclusive of the cost of salvageable material. Upon discontinuance of service, the actual cost shall be determined and an adjustment made as an additional charge, refund or credit, as determined by the Manager.

9.3315 Installation and operation. All facilities for temporary service to the customer connection shall be installed by the Water Department and shall be operated in accordance with its instructions.

9.3316 Rates. The rates for temporary service shall be applicable and shall be established from time to time by resolution of the Board.

9.3317 Credit. The applicant shall pay the estimated cost of service in advance or shall be otherwise required to establish credit according to the standards set forth in Section 9.3279 through 9.3283.

9.3318 Duration. The Manager may grant a temporary service pursuant to this Ordinance for a period of time not to exceed ninety days.

RATES AND CHARGES

Sections:

- 9.3319 Rate schedule.
- 9.3320 Penalty on delinquent accounts.
- 9.3321 Renewal of service.
- 9.3322 Service connections.
- 9.3323 Change in location of services.
- 9.3324 Temporary service.
- 9.3325 Connection fee.
- 9.3326 Deposit for meter test.
- 9.3327 Adjustment for meter errors.
- 9.3328 Replacement or change of deposit.
- 9.3329 Fire protection rates.
- 9.3330 Unauthorized use of fire hydrants.

- 9.3331 After hours service.
- 9.3332 Cost of standard specifications.
- 9.3333 Subsequent rate changes.
- 9.3334 Service outside the Reservation.

9.3319 Rate schedule. Rates for water service are to be established from time to time by resolution of the Board. In establishing the rates, the Board shall take into consideration: (1) the actual cost of providing water service; (2) the cost of maintaining the water system; (3) the life expectancy of the water system and (4) the cost of replacing the system. Each year the Board shall adopt a budget for the Water Department. The budget shall include a capital improvement and replacement fund and a separate maintenance fund. All funds of the Water Department shall be deposited in interest bearing accounts with a bank or savings and loan that is federally insured.

9.3320 Penalty on delinquent accounts. The basic penalty for nonpayment of charges for water service shall be ten percent of each month's charges. On the first day of the calendar month following the date of payment due, as specified in the bill, the charge shall become delinquent if the bill or that portion of the bill, which is not in bona fide dispute, remains unpaid.

9.3321 Renewal of service. The amount to be paid for renewal of a customer's service which has been discontinued for a violation of this Ordinance or the District's rules and regulations is an amount to be established from time to time by resolution of the Board in addition to all other charges provided for or established pursuant to said rules, regulations and ordinances.

9.3322 Service connections. Charges for new services are payable in advance and to be established from time to time by resolution of the Board.

9.3323 Change in location of services. Services moved for the convenience of the customer or to provide required access to meter or curb stop will be relocated at the customer's expense. Services moved to protect the District's property will be moved at its expense.

9.3324 Temporary service. The applicant for temporary service shall deposit, in advance, the cost, estimated by the Manager, of installing and removing the facilities required to furnish temporary service, exclusive of salvageable material. Upon discontinuance of service, the actual cost shall be determined and an adjustment made as an additional charge, refund or credit, as determined by the Board.

9.3325 Connection fee. The connection fee per service connection, exclusive of service, meter and meter installation charges, is to be established from time to time by resolution of the Board.

9.3326 Deposit for meter test. Any customer requesting that the meter serving his/her premises be tested for accuracy by the Water Department shall do so in writing, and his/her request shall be accompanied by a deposit to be established from time to time by resolution of the Board. Upon receipt of such request and the required deposit, the Manager shall cause the meter to be tested. The customer or his/her representative may, but need not, be present during the conduct of the test. If the meter is found to register over two percent more water than actually passes through it, the deposit will be refunded, but if the meter registers less than two percent

more water than actually passes through it, the deposit will be retained by the Board to offset the administrative cost of such testing.

9.3327 Adjustment for meter errors. If a meter shall be found to register over two percent more water than actually passes through it, the water bill for the current billing period shall be adjusted proportionately.

9.3328 Replacement or change of deposit. The Manager may require, as a condition of service at any time, that the deposit prescribed herein be replaced if the deposit or any part thereof has been applied to the payment of any bill or indebtedness to the District, or may require that the deposit be increased if depleted, found to be insufficient, or good cause otherwise exists.

9.3329 Fire protection rates. The monthly rates for private fire protection are to be established from time to time by resolution of the Board.

9.3330 Unauthorized use of fire hydrants. A penalty to be established by resolution from time to time of the Board shall be charged for water estimated to have been taken or wasted by the unauthorized use of a fire hydrant. The estimate shall be made by the Manager, and the penalty charges shall be due and payable on demand by the person using the water hydrant without authorization.

9.3331 After hours service. There shall be a charge to be established from time to time by resolution of the Board for customer-requested turn-on or turn-off of water service at any time other than during normal working hours, which are from eight a.m. to twelve noon and from one p.m. to five p.m. Monday through Friday, excepting holidays.

9.3332 Cost of standard specifications. The District's standard specification for water facility installations shall be available at the District's office for use and examination and copies shall be made available to interested persons at a cost to be established from time to time by resolution of the Board.

9.3333 Subsequent rate changes. All rates or charges established by this Ordinance are to be established by resolution of the Board.

9.3334 Service outside the Reservation. Nothing contained in this Ordinance shall be construed to preclude any special agreement or arrangement between the District and any person or entity whereby water service may be furnished by the District outside its boundaries, subject to payment for such service and to such other terms and conditions as may be established from time to time by resolution of the Board.

SPECIAL AGREEMENTS

Sections:

- 9.3335 Service, sale or lease of water outside the Reservation--Special agreements.
- 9.3336 Sale or lease of water outside the Reservation as beneficial consumptive use.

9.3335 Service, sale or lease of water outside the Reservation--Special agreements. No statement contained in this Ordinance shall be construed as preventing any special agreement or arrangement between the Board or any person or entity whereby water service or water may be provided, sold or leased by the Board subject to such terms and conditions as might be required by the Board as set forth in any written agreement approved by the Board.

9.3336 Sale or lease of water outside the Reservation as beneficial consumptive use. For the purposes of this Ordinance, the sale or lease of water off the Reservation for domestic or commercial purposes under a special agreement between the Board and any person shall be considered a beneficial consumptive use of the Tribe's water resources.

ELECTRICAL DEPARTMENT

Sections:

- 9.3337 Creation of the Electrical Department.
- 9.3338 Electrical Department Supervisor.
- 9.3339 Powers.

9.3337 Creation of the Electrical Department. An electrical department is created, as part of the District, consisting of the Electrical Department Supervisor and such other personnel as the Board of the District may designate from time to time.

9.3338 Electrical Department Supervisor. The Board shall appoint a person to operate the Electrical Department, Electrical System and perform the duties required by this Ordinance. The Board may appoint the Director of the District to serve as the Supervisor of the Electrical Department.

9.3339 Powers. The Electrical Department shall construct, maintain, and operate the Hopland Electrical System consisting of all plants, generators, facilities, poles, lines, wires, pipes, dams, and vehicles or equipment used to generate or produce electrical energy for sale or distribution on the Hopland Indian Reservation in accordance with the standards, procedures and rates established in this Ordinance.

UTILITY RATES

Sections:

- 9.3340 Statement of Policy.
- 9.3341 Rates Affected by this Chapter.
- 9.3342 Proposal for Rate Changes.
- 9.3343 Notice of Proposed Change.
- 9.3344 Content of Prior Notice.

- 9.3345 Public Hearing Required.
- 9.3346 Action by Board.
- 9.3347 Publication of Resolution Establishing Rates.

9.3340 Statement of Policy. It is the intent of the Board through the procedures outlined in this Chapter to provide opportunities for customers of the District to be informed of proposed utility rates and adjustments prior to action by the Board and to allow customers an opportunity to present their views prior to Board action.

9.3341 Rates Affected by this Chapter. The amendment of the following fees, charges, rates and taxes shall be accomplished according to the following procedure outlined in this Chapter:

- A. Water service rate schedules.
- B. Sewer service rate schedules.
- C. Electric Service Rate Schedules: Provided, however, P.G.&E. fuel cost adjustments as approved by the California State Public Utilities Commission for retail rates shall be adopted without adherence to notice requirements and public hearing procedures as set forth in Sections 9.3341 through 9.3344 of this Chapter. The District shall, by administrative action, pass such fuel cost adjustments on- to the electric service users as they shall occur.

9.3342 Proposal for Rate Changes. When a rate change appears desirable the proposal shall be referred to the District which shall prepare a written report and recommendation on the proposed rate change.

9.3343 Notice of Proposed Change. Upon notice of the completion of the Director's report the Board shall cause a notice to be included in the customer's regular billing statement and posted at the Tribe's administrative offices and at the Hopland Post Office at least ten (10) days prior to any Board consideration of the proposed change.

9.3344 Content of Prior Notice. The notice caused to be published by the Board shall contain the following information:

The notice shall be titled:

- A. Notice of public hearing to consider amendment of utility rates.
- B. The date, time and place when the hearing will be held.
- C. A copy of the proposed rate structure and the suggested effective date.
- D. A statement that the Director's report is on file with the Board and is available for review by customers at the Board's offices.

9.3345 Public Hearing Required. Prior to adopting any change in utility rates specified in this Ordinance the Board shall hold a public hearing for the purpose of hearing the report and recommendation of the Director and the comments of any customers. Such hearing may be continued if the Board so desires.

9.3346 Action by Board. Following the public hearing the Board may amend, revise, add to, and make deletions from the proposed rate change. The rate schedule so arrived at shall be put in the form of a resolution and shall be acted upon in the manner in which resolutions are usually considered by the Board.

9.3347 Publication of Resolution Establishing Rates. When the Board amends rates or charges using the procedures set forth in this Chapter the Board shall cause the resolution establishing rates to be included in the customer's regular billing statement and posted at the Tribe's administrative offices and at the Hopland Post Office within ten (10) days following Board action.

ELECTRIC UTILITY CUSTOMER SERVICE POLICIES - APPLICATIONS

Sections:

- 9.3348 Application for Service.
- 9.3349 Application Not Binding for Longer Than Rate Period.
- 9.3350 Individual Liability for Joint Service.
- 9.3351 Change of Occupancy.
- 9.3352 Standard Medical Baseline Quantity.

9.3348 Application for Service.

A. Each applicant for electric service shall be required to sign an application provided by the District, which will set forth the following:

1. Identity of applicant and all adult occupants;
2. Date of application;
3. Location of premises to be served;
4. Date applicant will be ready for service;
5. Whether the District has provided electricity to the premises in the past;
6. Purpose for which service is to be used;
7. Address to which bills are to be mailed;
8. Whether applicant is owner, tenant, or agent of the premises;

9. Rate schedule desired where optional rates are in effect;
10. Baseline eligibility information; and
11. Such other information or agreements as the District may reasonably require.

B. Industrial or commercial contracts may be written on a special form and shall contain such provisions as necessary and desirable to protect the interest of both the District and the customer.

9.3349 Application Not Binding for Longer Than Rate Period. Applicants for utility service may terminate service at any time upon reasonable notice to the District, but shall pay for service at rates established from time to time by District resolution and comply with the provisions of this Chapter and all other applicable rules and policies established by the Board. An application may be denied, if the applicant or any lawful occupant of the premises has unpaid bills owing for utility services furnished at the same or other locations.

9.3350 Individual Liability for Joint Service.

A. Two (2) or more parties who join in one application for service shall be jointly and severally liable for payment of bills and shall be billed by means of single periodic bills.

B. In every case, the person signing the application shall be personally responsible for all charges incurred. Where the person signing indicates in the application that he/she is doing so as agent of other customers, acceptance of service by the named principal (customer) shall conclusively establish such agency and shall render such principal (customer) jointly and severally responsible with the person signing for all charges incurred.

C. In the absence of a signed agreement or application for service, the delivery of service by the District, and its acceptance by the customer, shall be deemed to constitute an agreement and acceptance of the Customer Service Policies.

D. If applicant(s) fails to pay for service in accordance with these policies, all adults with a lawful right to occupy the premises and who benefit from electric service provided to the premises shall be jointly and severally liable for the cost of service.

9.3351 Change of Occupancy. When a change of occupancy or of legal responsibility takes place on any premises being served by the District, notice of such change shall be given to the District within a reasonable time prior to such change. The outgoing customer will be held responsible for payment for all services supplied until such notice has been received and the meter is read for the final billing by the District.

9.3352 Standard Medical Baseline Quantity. An additional baseline allowance is applicable to a residential customer who is a full-time resident of the household and who would qualify for a "declaration of eligibility for standard medical baseline quantity." The "standard medical baseline quantity" will be established by resolution that shall be adopted from time to time by the Board. This baseline does not guarantee continuance of service if the account becomes delinquent.

ELECTRIC UTILITY CUSTOMER SERVICE POLICIES - SERVICE

Sections:

- 9.3353 Joint Use of Electric Service.
- 9.3354 Rooming and Boarding Houses.
- 9.3355 Discontinuance for Nonpayment of Bills from Previous Location.
- 9.3356 Refusal or Discontinuance of Service for Unsafe Apparatus or for Prohibition of Law,
- 9.3357 Refusal or Discontinuance of Service Detrimental to Other Customers.
- 9.3358 Refusal or Discontinuance for Fraud and Abuse.
- 9.3359 Refusal or Discontinuance for Noncompliance with Rules.
- 9.3360 Discontinuance at Customer's Request; Customer's Liability Where Notice Not Given.
- 9.3361 Temporary Service.
- 9.3362 Resale of Energy.
- 9.3363 System Disturbances.
- 9.3364 Interruption of Service and Waiver of Liability for Power Fluctuations or Interruptions Based on Express or Implied Warranty and Strict Liability.
- 9.3365 Customer Power Outage.
- 9.3366 Notice of Trouble.
- 9.3367 Curtailment of Electric Service.
- 9.3368 Additional Electrical Load.
- 9.3369 Phase Balance.

9.3353 Joint Use of Electric Service. Not more than one dwelling shall be served from a single meter.

9.3354 Rooming and Boarding Houses.

A. Rooming and boarding houses, licensed as a place of business, shall be served at the commercial rate. If not more than three (3) rooms are available for rent, it shall be recognized as a residence and the residential rate shall apply.

B. A "boarding house" is defined to mean a building or portion thereof, other than a hotel or an apartment block, where lodging or meals for four or more persons, exclusive of the proprietor and his family, are provided for gain or reward.

9.3355 Discontinuance for Nonpayment of Bills from Previous Location. A customer/occupant receiving electric service at a location with an unpaid bill for electric service furnished at a previous location served by the District, will be discontinued for nonpayment of a bill for that prior service in accordance with the provisions of this Chapter.

9.3356 Refusal or Discontinuance of Service for Unsafe Apparatus or for Prohibition of Law. The District shall have the right to refuse or cease delivery of electricity to a customer if any part of the customer's service appliances or apparatus shall at any time be unsafe, or if the utilization of electricity by such appliances or apparatus shall be prohibited or forbidden under the authority of any law or Tribal ordinance or regulation (until such law, ordinance, or regulation shall be declared invalid by a court of competent jurisdiction), and may refuse to

serve until the customer has put such part in good and safe condition and complied with all the laws, ordinances, and regulations applicable to such part.

9.3357 Refusal or Discontinuance of Service Detrimental to Other Customers. The District shall refuse to furnish electric service or may discontinue electric service to any premises where the use of that service on such premises may be or is detrimental or injurious to the electric service furnished to other customers.

9.3358 Refusal or Discontinuance for Fraud and Abuse. The District shall have the right to refuse or discontinue electric service to any premises if necessary to protect itself against fraud or abuse.

9.3395 Refusal or Discontinuance for Noncompliance with Rules.

A. The District shall discontinue electric service to a customer for noncompliance with any of these rules if the customer fails to comply within five (5) days after receiving written notice of intention to discontinue service. The five (5) day notice requirement does not apply when a violation of this Chapter or other applicable rules and regulations poses an immediate risk of harm to persons or property, or a different notice requirement is imposed by Tribal law or other rules, regulations or policies adopted by the Board.

B. The District shall refuse or discontinue service for violation of any provision of this Chapter for failure to pay charges for electric service when due, for violation of rate schedule or contract provisions, for theft, or illegal diversion of electricity. The discontinuance of service for any of these causes does not release the customer from his./her obligation to pay for energy received, or charges specified in any existing agreement.

C. The District may refuse to connect a service should its personnel determine that the customer's equipment may be in violation of current Building or Fire Codes or that the location of the meter or other District property, which requires reading or maintenance, is such that access poses a safety hazard to its employees. Approval from the Tribal Building Official or Fire Marshal may be required before service will be provided. In addition, the customer may be required, at customer's expense, to relocate District equipment in order to eliminate any access safety concerns.

9.3360 Discontinuance at Customer's Request, Customer's Liability Where Notice Not Given.

A. The District reserves the right to read the meter for a final bill within three (3) working days from the date requested by the customer that the service be discontinued. The customer will be required to pay all charges incurred until the final meter reading by the District, but in no event, more than three (3) working days past the customer's discontinuance request date.

B. Where notice to discontinue service is not given, the customer will be required to pay all charges incurred until the final meter reading by the District, but in no event, more than

three (3) working days after the District has knowledge that the customer has vacated the premises or otherwise has discontinued electric service.

9.3361 Temporary Service.

A. Temporary service for electrical power and lighting installations shall be permitted during the period of construction, remodeling, repair or demolition of buildings, structures, equipment, or similar activities. Temporary service shall be permitted for a period not to exceed ninety (90) days for Christmas decorative lighting, carnivals, and similar purposes.

B. If in its opinion the furnishing of such service will not impose an undue hardship upon the District or its customers, the District will furnish temporary service under the conditions set forth in this Chapter.

C. The applicant for temporary service shall be required to pay to the District in advance or otherwise as the District may elect, a sum equivalent to the utility connection charge for temporary service as established in a resolution adopted by the Board.

9.3362 Resale of Energy. No purchaser of electric energy shall connect his/her service with that of any other person, or in any way resell, re-bill or supply any other person or premises with electric current through his service, appliances or any apparatus for the purpose of profit or for any other purpose.

9.3363 System Disturbances.

A. Electric service shall not be utilized in such a manner as to cause severe disturbances or voltage fluctuations to other customers of the District. In the event any customer uses equipment that is detrimental to the service of other customers of the District, such as welders, or large motor starting equipment, customer may be required to install, at his/her own expense, regulative equipment to control fluctuations.

B. Where X-ray apparatus is separately served, it shall be classed as power equipment and service will be rendered in accordance with commercial rates, which are adopted from time to time.

C. Where single phase power is required for special equipment and such service requires the installation by the District of special transformers to supply said single phase service, the District may charge a service fee established by Board resolution.

9.3364 Interruption of Service and Waiver of Liability for Power Fluctuations or Interruptions Based on Express or Implied Warranty and Strict Liability.

A. Electrical service is subject to unforeseen interruptions and changes in the flow of current (surges and brown outs). Many electrical appliances, such as VCRs, televisions, refrigerators, freezers, air conditioners and especially computers, slot machines and appliances using computer processors, may be damaged by current fluctuations or a sudden loss of power. Data stored in computer memory may be lost or altered as a result of these fluctuations or interruptions. Surge protectors, uninterruptible power supplies and other devices are available on

the market that may reduce the risk of damage resulting from fluctuations and interruptions in the flow of electric current. The District does not guarantee a constant or uninterrupted flow of current and will not assume responsibility for damages caused by fluctuations or interruptions, unless caused by the negligence of the District or its employees. The District will use reasonable diligence to provide adequate and uninterrupted supply of electrical energy at normal voltage, but if the supply shall be interrupted without notice for any cause, the District shall not be liable for personal injuries, loss or damages resulting from such interruption, nor will such failure constitute a breach of any express or implied warranties or the agreement for service.

B. In submitting an application for service or using the District's electrical service, the customer agrees that he/she will make no claims and seek no damages from the District for damages caused by fluctuations or interruptions in the flow of electric current, unless that fluctuation or interruption was caused by the negligence of the District or its employees. The customer agrees that the District's liability for damages is limited as provided in this Section.

C. The District shall have the right to suspend temporarily the delivery of electric energy for the purpose of making repairs or improvements to its system. In all such cases, reasonable notice will be given to the customer and the repairs or improvements will be conducted as rapidly as may be practicable. If practicable, the work still be conducted at such time as will cause the least inconvenience to the customers. However, the District shall not be liable for damages or injuries caused by such interruptions or by the customer's failure to receive notice of the interruption.

9.3365 Customer Power Outage. If the customer's service fails, the customer shall endeavor to determine if customer owned equipment, protection devices or wiring is cause for the failure before contacting the District. At the customer's request, the District will dispatch a service person to check and repair District-owned equipment to the designated service point, at no charge. Any failure of customer-owned equipment, protection devices or wiring is the responsibility of the customer.

9.3366 Notice of Trouble. In the event that service is interrupted or not satisfactory, or any hazardous condition is known to exist, it shall be the obligation of the customer to notify the District of such condition.

9.3367 Curtailment of Electric Service. Should a serious power shortage develop and should it become mandatory that the District place into effect a curtailment program, the District reserves the right to limit the use of electricity during such hours as may become necessary.

9.3368 Additional Electrical Load. In the event the customer desires to change his/her electrical load materially, the customer shall notify the District sufficiently in advance so that the District may, if economically feasible, provide the facilities required. In the event that the customer fails to notify the District, and as a result the District's equipment is damaged, the customer shall be liable for the cost of such damage.

Section 13.40.170 Phase Balance. Except in the case of three-phase, four (4) wire delta service, the District shall require that the current taken by each wire of the three-phase service shall be reasonably balanced at times of maximum or near maximum load. The customer is responsible for maintaining the balance of the three-phase load.

ELECTRIC UTILITY CUSTOMER
SERVICE POLICIES -- BILLING AND COLLECTION

Sections:

9.3370	Applicable Rate Schedule Adoption by Resolution.
9.3371	Billing Period.
9.3372	Meter Readings.
9.3373	Payment of Bills.
9.3374	Disputed Bills/Correctness of Bills.
9.3375	Collection of Bills.
9.3376	Collection of Delinquent Accounts.
9.3377	Returned Checks.
9.3378	Closing Bills.
9.3379	Service Charges.
9.3380	After Hours Connection Service.

9.3370 Applicable Rate Schedule Adoption by Resolution. The Board may, by resolution, adopt and from time to time modify, amend or repeal any of the rates, fees or service charges to be levied, assessed, charged and collected for electric service. Applicable rate, fees and charge schedules shall be maintained in sufficient quantity for distribution to electric customers upon request.

9.3371 Billing Period.

A. Bills for electric service will be rendered monthly or by cycle billing based on geographical areas as otherwise provided in the rate schedules.

B. If service is connected less than ten (10) days before the route reading date, a separate bill for this period will not be rendered, but these readings will be included with the readings of the next regular billing.

9.3372 Meter Readings.

A. Meters will be read at regular intervals for the preparation of regular bills and as required for the preparation of opening bills, closing bills, and special bills.

B. The District will, as nearly as possible, read meters on the same cycle date, but because of holidays, Saturdays, Sundays, and the difference in the length of months, a five (5) day variation may occur.

C. If for any reason a reading cannot be obtained for any particular period, the billing shall be based on an estimate of energy use and demand. It will be subject to later correction based on the next actual reading(s). The District will not estimate usage more than three (3) consecutive times. If the reading constraints are not removed, the District may discontinue service.

9.3373 Payment of Bills.

A. Bills are due and payable on presentation, and payment shall be made at the District's office or to an authorized collector. Failure of the customer to receive a bill will not release the customer from liability for payment.

B. By resolution, the Board may establish policies for extended payment terms for customers who experience financial hardship.

9.3374 Disputed Bills/Correctness of Bills.

A. If a customer questions or disputes a bill, the District will respond in accordance with the procedure adopted by Board resolution. If the bill is determined to be incorrect, the District will issue a corrected bill.

B. Except as otherwise provided for in this Chapter, if billing has been made based on incorrect information, the District shall issue a corrected bill. If an overcharge has occurred, the District shall issue a refund based on the corrected information, not exceeding six (6) months. If an undercharge has occurred, the District shall render a bill, based on the corrected information, not exceeding three (3) months, unless it can be shown that the error was due to some cause, the date of which can be fixed. In this case, the correction shall be computed back to, but not beyond such date.

9.3375 Collection of Bills. The collection cycle in which past due, delinquent, final, and disconnection notices are determined and the related fees, will be established by resolution that may be adopted from time to time by the Board.

9.3376 Collection of Delinquent Accounts. In collecting delinquent accounts or terminating utility service, the District shall comply with applicable procedures required by any resolution of the Board or by law.

9.3377 Returned Checks. If a check is returned due to insufficient funds, or for any other reason the funds are not available, the District shall terminate service in accordance with Section 9.3375 above. The fee for returned checks will be established by Board resolution that may be adopted from time to time. If more than two (2) checks in twelve (12) consecutive months are returned unpaid, the District shall have the right to request "cash" or "money order only" for payment on such account(s).

9.3378 Closing Bills. Closing bills, where service is to be discontinued, will be due and payable on presentation, and collection may be made at any time after presentation.

9.3379 Service Charges. Service charges shall be as set forth from time to time in the applicable schedule of rates, fees and service charges, as adopted by resolution by the Board.

9.3380 After Hours Connection Service. After hours connection service will be available to customers provided they pay the actual cost for connection as established from time to time by resolution of the Board,

ELECTRIC UTILITY CUSTOMER SERVICE POLICIES - METERS

Sections:

- 9.3381 Meters.
- 9.3382 Meter Locations.
- 9.3383 Separate Meters; Readings Not Combined.
- 9.3384 Separate Meter for Each Class of Service.
- 9.3385 Meter Tests.
- 9.3386 Adjustment of Bills Based on Faulty Meters.

9.3381 Meters. Meters will be installed by the District as provided in this Chapter. All meters will be scaled by the District at the time of installation, and no seal shall be altered or broken except by one of its authorized employees or agents.

9.3382 Meter Locations.

A. Meters shall be installed on the outside of buildings, or service structures, unless otherwise specifically authorized and approved by the District. Meters shall not be installed in places difficult to access: over open pits, moving machinery, hatchways, in the path of water from eaves or rain spouts, or areas subject to live steam or corrosive vapors. It shall be the responsibility of the customer to maintain clear working space of not less than thirty six inches wide by thirty six inches deep (36" x 36") at the face of the meter, along with a suitable permanent, substantial platform directly below the meter equal to the clear working space. The space required by this Section shall not be used for storage or any other purpose. At least one entrance of twenty four inches wide by six and one-half feet tall (24" x 6 1/2) shall be provided to give access to the electrical equipment.

B. Meters shall be located not more than seventy five inches (75") and not less than forty eight inches (48") above the ground or standing surface when installed outdoors. When meters are enclosed in a cabinet or indoors in a meter room, the minimum height may be reduced to thirty six inches (36"). The meter height shall be measured to the horizontal center line of the meter.

C. Where meters are recessed in a wall or building, a space of not less than an eight inch (8") radius circle from the center point of the meter base shall be provided to permit access of District test equipment.

9.3383 Separate Meters; Readings Not Combined. Each meter on a customer's premises will be read and billed separately.

9.3384 Separate Meter for Each Class of Service. When the customer desires to use electricity for purposes classified under different rates, separate meters must be installed to measure the energy supplied at each rate, and the use of electricity registered by each meter will be charged at prices specified in the applicable rate schedule.

9.3385 Meter Tests.

A. The District will, at its own expense, make tests and inspections as required on its meters to insure accuracy. The District shall have the right to test any meter at any time. Any meter found to exceed two percent (2%) plus or minus tolerance will be replaced without charge.

B. Upon a customer's request, the District will, at no charge, perform one meter test per meter in a five (5) year period. Additional tests at the customer's request will be made, and if the meter is found to register within the two percent (2%) plus or minus tolerance, the customer shall pay a test fee as set by resolution of the Board. If the meter is found to exceed the two percent (2%) limit plus or minus tolerance, no charge will be made for the testing. A report giving the result of the test will be supplied to the customer after completion of the test.

9.3386 Adjustment of Bills Based on Faulty Meters. When, as the result of any test, a meter is found to be more than two percent (2%) fast, the District shall refund to the customer the overcharge, based on the corrected meter readings for the period in which the meter was in use, not exceeding six (6) months, unless it can be shown that the error was due to some cause, the date of which can be fixed. In this case, the overcharge shall be computed back to, but not beyond, such date. If the meter is found to be slow, the District will not bill the customer for the resulting under charge, but will correct the meter immediately.

ELECTRIC UTILITY CUSTOMER SERVICE POLICIES - EQUIPMENT

Sections:

- 9.3387 Customer's Wiring and Equipment.
- 9.3388 Equipment Liability.
- 9.3389 District Employees Only to Install Connection.
- 9.3390 Ownership.
- 9.3391 Maintenance.
- 9.3392 Right of Safe Access.
- 9.3393 Inspection or Recommendations Without Charge or Liability.
- 9.3394 Customer's Responsibility for District's Property.
- 9.3395 Right of Way.
- 9.3396 Service Entrance Locations.

9.3387 Customer's Wiring and Equipment.

A. It shall be the customer's responsibility to provide suitable protective equipment such as fuses, circuit breakers and relays adequate to protect his/her equipment. If three-phase equipment is used, it shall be the customer's responsibility to protect it against phase failure, also under and over voltage. The District will take all reasonable precautions to prevent phase failure or abnormal voltage variation, but cannot guarantee that such conditions may not occur, due to circumstances beyond its control.

B. The customer's wiring shall be in accordance with the editions of the National Electric Code presently adopted and in force as part of the Tribal Code and such revised, modified or subsequent editions thereof which may from time to time be adopted.

C. The District reserves the right to refuse or discontinue service to customers. equipment or to where such equipment is in hazardous condition, or not in conformity with lawful codes and local regulations.

D. The customer shall be solely responsible for the maintenance and safety of his/her wiring and equipment and the District shall not in any way be liable for accident, or damages, occurring to the customer or to third parties because of contact with or failure of any portion of the customer's installation.

9.3388 Equipment Liability. The District does not assume the duty of inspecting the customer's service appliances or apparatus or any part such appliances or apparatus and assumes no liability therefore. In the event that the customer finds the District's electrical equipment and/or service to be defective, the customer shall notify the District of the defect immediately

9.3389 District Employees Only to Install Connection Only duly authorized employees or agents of the District will be permitted to install a service connection from the District's distribution line to the customer's premises

9.3390 Ownership. The service connections, meters, and other facilities furnished by the District and located wholly or partially upon the customer's premises are and shall remain the property of the District, which has and shall have the right to repair, replace, and remove them.

9.3391 Maintenance. The District will not be responsible for the installation and maintenance of the electrical lines beyond the end of the District's service connection point or meter.

9.3392 Right of Safe Access. The District, through its authorized employees, shall have safe access to its equipment at all reasonable times for the purpose of reading meters and testing, repairing or replacing any equipment which is the property of the District. If such equipment is located where locks are required, the District shall be supplied with and retain keys to all locks giving access to District equipment. If such equipment is located where an electronic security system is required, the District shall be supplied with codes or electronic keys giving access to District equipment.

9.3393 Inspection or Recommendations Without Charge or Liability. The District will not charge or assume any liability for any inspection work or recommendations made by the District or its agents in connection with the District's electrical service or related equipment whether that inspection results from a complaint or any other cause.

9.3394 Customer's Responsibility for District's Property. It shall be the responsibility of the customer to take all reasonable and proper precautions to prevent damage to the District's property on his/her premises. Such property shall include meters, instruments, transformers, services, and connections, and any other equipment installed by and remaining the property of the District. In the event that the District's property is damaged because of the customer's negligence, the District may collect from the customer the cost of repairs or replacement.

9.3395 Right of Way. The District will install electric utility facilities only along public roads and highways and upon public lands or private property across which satisfactory rights of way or utility easements may be obtained without cost to the District. Facilities to be located on public lands or private property across which the District cannot obtain a right of way or utility easement under conditions satisfactory to the District must be built, owned and maintained by the applicant or applicants, and constructed to conform to the effective rules for electrical construction regularly adopted by the public utilities commission of the State of California.

9.3396 Service Entrance Locations. New service entrance locations shall be authorized and approved by the District prior to installation.

ELECTRIC UTILITY CUSTOMER SERVICE POLICIES - HARD TO SERVE AREAS

Sections:

- 9.3397 Definition.
- 9.3398 Right to Refuse Or To Impose Conditions on the Extension of Electric Service.
- 9.3399 Written Agreement Required of Applicants for Service.
- 9.3400 Application of Article.

9.3397 Definition. "Hard to Serve Area" means a geographic area within the District limits or an area outside the Reservation served or proposed to be served by the District's electric utility in which the Director or his or her designee has determined, in the exercise of his or her discretion, that physical conditions make the extension, maintenance, repair or replacement of electrical distribution lines and related facilities unusually difficult or expensive.

9.3398 Right to Refuse Or To Impose Conditions on the Extension of Electric Service. The District shall have the right to refuse to extend electric service to hard to serve areas. The District may impose reasonable conditions on the extension of electric service to hard to serve areas, including, but not limited to, the agreement of the applicant or applicants for electric service to:

A. Construct, own, maintain, repair and replace electrical distribution lines and related facilities, such as conduit, trenches, vaults, switches, poles and transformers;

B. Indemnify, defend and hold the District harmless from any expense or liability arising from the use of designated electrical distribution lines and related facilities for which the applicant or applicants assume responsibility under this section;

C. Design and construct electrical distribution lines and related facilities in accordance with specifications prescribed by the District, including, but not limited to, specifications that ensure that all electrical service to a service location or structure will be metered;

D. Provide arrangements and assurances, satisfactory to the Director or his or her designee, that the electrical distribution lines and related facilities will be adequately maintained to provide safe and reliable transmission of electrical energy to the customers served by said facilities and will not create an unreasonable risk of damage to the District's electric system or the general public; and

E. Provide the District with access to all electrical distribution lines and related facilities, and to all electric meters for purposes of inspection, meter reading or termination of electric service.

9.339 Written Agreement Required of applicants for Service. The Director or his or her designee may require an applicant or applicants for service in hard to serve areas to sign a written agreement in recordable form setting forth the terms as authorized by this Ordinance. The District may refuse to provide service until the agreement in the required form has been executed.

9.3400 Application of Ordinance. This Ordinance shall apply to any request for service to hard to serve areas not already receiving electric service from the District's electric utility on the effective date of this Ordinance.

Severability. If any part of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

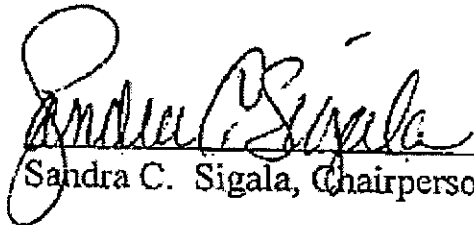
Repeat of All Prior or Inconsistent Ordinances. The provisions of any ordinances or resolutions previously enacted by the Tribal Council, including but not limited to the previously enacted Water Ordinance, which are inconsistent with any of the provisions of this Ordinance are hereby repealed.

Effective Date. This Ordinance shall take effect immediately upon passage.

CERTIFICATION

The foregoing Ordinance was passed at a regular meeting of the Hopland Tribal Council held on June 14, 2004, by the following vote:

AYES: 4
NOES: 0
ABASTAIN: 0
ABSENT: 2


Sandra C. Sigala, Chairperson

ATTEST:


Julie Vedolla-Euentes, Secretary

TITLE 10 Land and Buildings

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CHAPTER 10-1 ADOPTING THE UNIFORM CODES

Section 10-1.10 Definitions. Whenever the following words and/or phrases are used in any of the Uniform Codes adopted in accordance with this Chapter below, they shall have the following meanings: “*Building inspector*” or “*Building official*” shall mean the building official of the tribe.

(b) “*City*” or “*municipality*” or “*county*” or “*state*” shall mean the Tribe.

(c) “*Housing Law*” shall mean the housing law of the Hopland Band of Pomo Indians.

(d) “*Tribe*” shall mean the Hopland of Pomo Indians.

(e) “*Reservation*” means all lands within the boundaries of the Hopland Indian Reservation.

Section 10-1.20 Adoption of Uniform Codes by Resolution. The Tribal Council may, from time to time, adopt by resolution the following codes:

10-1.10.010 The Uniform Building Code (Volume 1, 2, & 3) as published by the International Conference of Building Officials. (I.C.B.O.)

10-1.10.020 The Uniform Plumbing Code as Published by the International Association of Plumbing and Mechanical Officials (I.A.P.M.O.), including appendices A, B, D, G, I, and I.A.P.M.O. installation standards.

10-1.10.030 The National Electric Code, as published by the National Fire Protection Association (N.F.P.A.)

10-1.10.040 The Uniform Mechanical Code, Published by the International Conference of building officials (I.C.B.O.) and the International Association of Plumbing & Mechanical Officials (I.C.B.O.)

10-1.10.050 Uniform Housing Code, Published by International conference of Building Officials (I.C.B.O.)

10-1.10.060 Uniform Code For Abatement of dangerous Buildings as Published by the International Conference of Building Officials (I.C.B.O.)

10-1.10.070 The Uniform Fire Code, as Published by the International Conference of Building Officials (I.C.B.O.)

Section 10-1.30 Retention of Codes. Not less than one copy of each of the codes adopted above, all certified to be true copies by the Secretary of the Tribal Council, shall be filed and kept in the office of the Tribal Council Secretary and shall be available for public inspection during business hours while the codes remain in effect.

Section 10-1.40 General Provisions

10-1.40.010 Effective Date. This Ordinance shall take effect immediately upon its adoption by the Tribal Council for the Tribe.

History: Ordinance No. 03-26-99B.

Section 10-2.10 Adoption of Uniform Fire Codes by Resolution.

The Tribal Council may, from time-to-time, adopt by Resolution the Uniform Fire Code Standards, including all appendices and the National Fire Codes which are not inconsistent with the provisions of the Uniform Fire Code Standards, as promulgated and updated from time to time by the International Conference of Building Officials and the Western Fire Chiefs' Association.

History: Ordinance No. 01-01-26A.

Section 10-3.10 Definitions. For the purpose of Chapter 10-3, the words and phrases set forth in this Section shall have the meanings respectively ascribed to them herein.

(a) “*Assignment*” or “*Land Assignment*” means a formal exclusive right to use and possess tribal land for Residential Assignment purposes subject to the provisions of this Ordinance.

(b) “*Assignee*” means a member of the Tribe that has been granted assignment.

(c) “*Eligible Voters*” means those members of the Tribe 18 years of age or older who meet the eligibility criteria set forth in the Tribe’s Constitution to be able to vote in tribal elections.

(d) “*Public Purpose*” means to provide essential governmental services on the Reservation, including, but not limited to, low income public housing, water, sewer, police, fire, judicial services, transportation, electricity, telephone, roads, docks, wharves, drainage, recreation, airports, solid waste, television, radio, social services and public administration. Public Purpose shall not include any businesses operated for profit that any individual or entity could operate if they were not a government entity.

(e) “*Residential Assignment*” means the use and occupation of tribal land for the permitted use allowable for an R-1 or R-2 Zone defined as such in the Tribe’s Zoning Ordinance.

(f) “*Reservation*” means all lands owned by the United States of America in trust for the Tribe.

(g) “*Tribal Council*” means the Tribal Council for the Tribe.

(h) “*Tribal Court*” means the Tribal Court for the Tribe.

(i) “*Tribe*” means the Hopland Band of Pomo Indians.

(j) “*Tribal Secretary*” means Elected Official.

(k) “*Tribal Council Secretary*” means Official Secretary.

(l) “*Secretary of the Interior*” means Bureau of Indian Affairs.

Section 10-3.20 Eligibility for Assignment.

No application for an Assignment shall be approved by the Tribal Council unless the applicant meets all of the following requirements:

10-1.10.010 The applicant is an enrolled member of the Tribe;

10-1.10.020 The applicant is at least eighteen (18) years of age;

10-1.10.030 The applicant has no interest in a Residential Assignment previously granted under this Chapter; and

10-1.10.040 The applicant has completed a financial statement on a form approved by the Tribal Council for that purpose, demonstrating that the applicant has the financial capability to develop and occupy the land that is the subject of the application within the time periods specified in this Chapter.

Section 10-3.30 Procedure for Applying for an Assignment.

10-3.30.010 Application for assignment. The applicant for an Assignment shall complete a land assignment application in a form that has been approved by the Tribal Council for that purpose. The form shall contain: (1) the name, age, address and telephone number of the applicant; (2) a statement under penalty of perjury that the applicant has no interest in a Residential Assignment previously approved by the Tribal Council under this Chapter; (3) a physical description of the land that will be used by the applicant under the Assignment; and (4) an income and asset statement setting forth the income, assets and liabilities of the applicant. The application and the information contained in the application shall remain strictly confidential and shall only be disclosed to the Tribal Council and Tribal Council staff that are necessary to determine whether the applicant is eligible for a Land Assignment.

10-3.30.020 Approval of applications. Any person making application for a land assignment shall file an original and two copies of the application with the Secretary of the Tribal Council. No one shall make more than one (1) application per year.

(A) Immediately upon receiving the application, the Secretary shall stamp the date that the original and the copies of the application were received by the Secretary. The Secretary shall then return one copy to the applicant with a “Received” and “date” stamped on the face of the application for the applicant’s records and shall forward the other copy to the Tribal Realty Office. Within thirty (30) days from the date of the filing of the application for a Land Assignment, the Realty Officer, shall make and file with the Tribal Secretary a request to be placed on the agenda for the next meeting of the Tribal Council a report to the Tribal Council recommending the rejection, modification or approval of the Land Assignment. The recommendation shall set forth a finding that the applicant meets all the eligibility requirements set forth and that approval of the Assignment is consistent with the Tribe’s Zoning Ordinance. The report shall also state the reasons or justification for the Realty Officer’s recommendation.

(B) Within thirty (30) days from the date that the Realty Office makes and files the report on the application, the Secretary of the Tribal Council shall cause the application for the Assignment to be placed on the agenda for the next Tribal Council meeting. Fourteen (14) days prior to the Tribal Council meeting where the application for Assignment will be considered by the Tribal Council, the Secretary shall cause a written notice to be sent to the applicant advising the applicant of the date, time and place where the Tribal Council shall consider the application for Assignment and that the applicant has the right to appear before the Tribal Council and present any evidence that the applicant may have in support of the application. All applications for Assignment shall be approved by a majority vote of the Tribal Council and the decision of the Tribal Council shall be final and non-appealable except by a referendum election of the Eligible Voters. All decisions of the Tribal Council approving, rejecting or modifying an application for an Assignment shall set forth specific findings on which the Tribal Council’s decision is based. An applicant may seek review of the Tribal Council decision in the Tribal Court pursuant to the Tribe’s administrative procedures ordinance and thereafter by an appropriate referendum election of the eligible voters of the Tribe under the Tribe’s Constitution. When the Tribal Council approves an Assignment, it shall issue a formal

“Assignment Deed” in the form required by Section 10-3.40.020 below. The Secretary of the Tribal Council shall maintain a record of all actions taken on Assignment applications and copies of all Assignment Deeds in the official records of the Tribal Council. When an Assignment Deed is issued under this Chapter, a copy will be provided to the Planning Commission, which shall cause the physical description of the Assignment, as set forth in the Assignment Deed, to be depicted on the official zoning map of the Tribe.

10-3.30.030 Action on Applications if no Tribal Realty Officer Appointed. If the Tribe has not appointed a Realty Officer and the Tribal Council does not act on an application for land assignment within thirty (30) days the application shall be considered denied and the Secretary of the Tribal Council shall promptly inform the applicant in writing. Purpose of assignment. No application for an Assignment shall be approved by the Tribal Council except for Residential Assignment purposes and for the limited commercial purpose as specified herein. A Residential Assignment shall not exceed the numbers of acres of land allowable for a lot within the zone or district in which the land is located, as set forth in the Tribe’s Zoning and Subdivision Ordinances; but in no event shall the Assignment exceed five (5) acres. Each Assignee shall have the right to use his or/ her Assignment for those uses specified as a conditional use within a Single Family Residence (RI) Zone as defined by the Tribe’s Zoning And Land Use Ordinance. **Assignment Policy**

10-3.40.010 Title to land. An assignment granted under this Chapter does not vest title to the property in the Assignee, but only grants the Assignee an exclusive right to use and possess the land under the terms and conditions of the Assignment. Such right of use and possession will terminate upon cancellation of the Assignment by the Tribal Council, relinquishment of the Assignment by the Assignee, or upon the death of the Assignee, except as otherwise provided in this Chapter.

10-3.40.020 Assignment Deed and Waiver of Sovereign Immunity. Upon approval of the Assignment by a resolution adopted by the Tribal Council for that purpose, the Chairman of the Tribal Council shall execute a deed formally conveying the assigned land to the applicant. The deed shall be titled: “Assignment Deed” and shall state:

“The Hopland Band of Pomo Indians, Assignor, hereby grants to _____, Assignee, all of the following described real property owned by the United States of America in trust for the Hopland Band of Pomo Indians for Residential Assignment purposes:

_____. Pursuant to Section __ of Ordinance No., _____, “An Ordinance of the Tribal Council Limiting the Liability of the Tribe,” The Tribal Council hereby expressly waives its sovereign immunity from suit for the sole purpose of allowing the Assignee, the Assignees’ heirs or the Assignees’ lawful assignee or transferee, to sue the Hopland Band of Pomo Indians, its officers, agents, and employees in Tribal Court for declaratory and injunctive relief or in the event and only in the event of a tribal condemnation action, for money damages, to enforce the provisions of this Assignment Deed and the provisions of the Hopland Ordinance “Adopting Land Assignment Regulations For Determining When And Under What Conditions Tribal Members Can Occupy Tribal Lands” (“Land Assignment Ordinance”) that was or is in

effect at the time this Assignment Deed was or is approved and which is hereby incorporated by this reference and attached hereto as Exhibit A. In any action brought to enforce the provisions of this Assignment Deed, the action shall be brought in the Hopland Tribal Court. In the event that the Hopland Tribal Court cannot hear the case for whatever reason, then the action can be brought in any court of competent jurisdiction. The limited waiver of sovereign immunity and the right of the Assignee or the Assignee's heirs or transferee to enforce the rights set forth herein shall survive the any repeal or amendment of the Land Assignment Ordinance which occurs after the issuance and execution of this Assignment.

The Tribal Chair of the Council shall date and sign the Assignment Deed which shall be attested to by the Secretary of the Tribal Council. After execution of the Assignment Deed by the Officials of the Tribe, the Chair of the Tribal Council shall submit the Assignment Deed to the Bureau of Indian Affairs for their records pursuant to 25 CFR Subchapter H Land and Water Part 150. After the Secretary accepts the Assignment Deed, it shall be stamped by the Tribal Secretary as recorded and a record of the Assignment Deed shall be kept by the Tribal Realty Officer in an Assignment Deed Book maintained by the Secretary for that purpose. The Secretary shall then record the Deed in the Assignment Deed Book. The Assignment Deed Book shall be maintained as an official record of the Tribe and stored in the Tribal Depository. The Tribal Realty Officer Secretary shall then provide the Assignee with a certified copy of the Assignment Deed for the Assignee's records and send a courtesy copy of the Assignment Deed to the Bureau of Indian Affairs.

10-3.40.030 Transfer of assignment. An Assignment may only be transferred, assigned to or exchanged with another eligible member of the Tribe, or the Tribe itself, with the approval of the Tribal Council. Any request by an Assignee to transfer or exchange his or her Assignment shall be made to the Tribal Council on a form approved by the Tribal Council for that purpose. All requests to exchange or transfer an Assignment shall be filed with the Secretary of the Tribal Council and shall be placed on the agenda of the Tribal Council within thirty (30) days from the date that the request for a transfer or exchange of an Assignment is filed with the Secretary. Fourteen (14) days prior to the date that the Tribal Council shall hear the request for an exchange, assignment or transfer of an Assignment, the Secretary shall send a written notice to the applicant setting forth the date, time and place where the hearing will be heard to determine whether to approve or reject the request and shall state that the applicant has the right to appear before the Tribal Council and present any evidence that he or she may have in support of the request. The decision of the Tribal Council approving or denying a request for an exchange, assignment or transfer of an Assignment may be reviewed by the Tribal Court pursuant to the Tribe's Administrative Procedures Ordinance and thereafter shall be final and non-appealable except by an appropriate referendum election of the eligible voters of the Tribe under the Tribe's Constitution.

10-3.40.040 Relinquishment of assignment. Any Assignee may relinquish his or her Assignment at any time, with or without cause, by executing and filing with the Tribal Council and the Tribal Realty Officer Secretary a Reconveyance Deed in a form approved by the Tribal Council for that purpose reconveying the Assignment to the Tribe. A Reconveyance Deed executed by an Assignee shall be recorded by the Tribal Realty Officer Secretary in the Assignment Deed Book.

10-3.40.050 Notice. In the event of the Assignee's death, the Tribal Council shall mail application to all beneficiaries indicated on the beneficiary form that such person(s) may be eligible to apply for and receive the Assignment. The notice shall be mailed to the last known address of such persons and inform them that if they wish to apply for the Assignment they must do so within ninety (90) days of the mailing of the notice. The Tribal Council may extend this ninety (90) day period upon request and as it sees fit in its sole discretion. The Tribal Council shall also post the notice at the tribal administrative offices. A good faith attempt to provide the notice under this section shall be deemed to be in compliance with the terms of this Ordinance.

10-3.40.060 Eligible surviving spouse. In the event of the Assignee's death where the Assignee has left no valid Will, the Tribal Council shall reassign the Assignment to the surviving spouse of the Assignee if the, providing that the surviving spouse is eligible to hold an Assignment under the provisions of this Chapter, and providing further that the surviving spouse files an application for the Assignment within ninety (90) days from the date of mailing of the notice of death of the Assignee. The reassignment shall be accompanied by the execution of an Assignment Deed in the form required by Section 10-3.40-020 above.

10-3.40.070 Ineligible surviving spouse of assignee with children. In the event of the Assignee's death and the Assignee has left no valid Will, a surviving spouse who is ineligible to hold an Assignment under the provisions of this Chapter, but who is responsible for the care of minor children or grandchildren of the Assignee [who are members or eligible for membership], shall still be granted the Assignment upon application, provided the application was timely filed with the Secretary of the Tribal Council within ninety (90) days from the date of death of the Assignee. When the youngest child or grandchild reaches (18) years of age the Assignment will then be subject to the provisions of Sections 10-3.40.080 or 10-3.40.090 except that it will take effect upon the minor reaching the age of majority rather than the death of the Assignee.

10-3.40.080 Ineligible surviving spouse without children. In the event of the Assignee's death and the Assignee has left no valid will, a surviving spouse who is ineligible to hold an Assignment under the provisions of this Ordinance and who has no eligible minor children or grandchildren who are Tribal members or eligible for membership, shall be granted the Assignment for up to 24 months.

10-3.40.090 Surviving adult children. If at the time of the Assignee's death who has left no valid will, there is no surviving spouse, or no surviving spouse eligible to hold an Assignment under this Ordinance, and the Assignee left no Will, but there is one or more surviving children eligible to hold the Assignment for tribal enrollment, the Tribal Council shall convey the Assignment to such surviving child/children of the Assignee if the child/children files a timely application and is at least eighteen (18) years old by the execution of an Assignment Deed in the form required by Section 10-3.40.020 above. If there is more than one surviving child, the Assignment shall be made in equal shares to all of the children who apply in equal shares. Any disputes arising among the children regarding who has a right to use the Assignment shall be submitted to the Tribal Council for resolution. In resolving said dispute, the Tribal Council shall apply tribal, federal and state law in that order. Any decision of the Tribal Council shall be final. The Tribal Council shall have the authority to partition the Assignment, provided the partitioned parcels meet the requirements of the Tribe's Zoning and Subdivision Ordinances. The decision of the Tribal Council may be reviewed by the Tribal Court pursuant to

the Tribe's administrative procedures ordinance and thereafter by an appropriate referendum election of the eligible voters of the Tribe under the Tribe's Constitution.

10-3.40.100 Surviving minor children. If at the time of the Assignee's death who has left no valid will, the surviving child or children of the Assignee is/are under the age of eighteen (18) and have no surviving parents but are otherwise eligible to receive a transfer or conveyance of the Assignment from the Tribal Council, the Tribal Council may transfer the Assignment to the minor(s) to be held in trust by his/her/their custodian who must reside on the Assignment with the minor(s) hold the minor child's or children's Assignment in trust until he/she/they reach the age of eighteen (18). Within ninety (90) days of reaching eighteen (18) years of age, the eligible child or children must apply for the Assignment to be taken out of trust and granted to him/her/them free of said trust. Such application must be approved by the Tribal Council on a form approved by the Tribal Council for that purpose and the Chair and Secretary of the Council shall execute an Assignment Deed to the surviving child or children in the form required by Section 10-3.40.020 above.

10-3.40.110 Surviving adult grandchildren. If at the time of the Assignee's death who has left no valid Will, there is no surviving spouse eligible to hold an Assignment under this Chapter and no surviving child or children eligible to hold an Assignment (or have it held for him, her, or them in trust), but there is one or more surviving grandchildren eligible to hold the Assignment, the Tribal Council shall convey the Assignment to such surviving grandchild(ren) of the Assignee if the grandchild(ren) files a timely application. If there is more than one surviving grandchild, the Assignment shall be made in equal shares to all of the grandchildren who apply. Any disputes arising among the grandchildren regarding who has a right to use the Assignment shall be submitted to the Tribal Council for resolution. In resolving said dispute, the Tribal Council shall apply tribal, federal and state law in that order. The Tribal Council shall have the authority to partition the Assignment, provided the partitioned parcels meet the requirements of the Tribe's Zoning and Subdivision Ordinances. The decision of the Tribal Council may be reviewed by the Tribal Court pursuant to the Tribe's administrative procedures ordinance and thereafter by an appropriate referendum election of the eligible voters of the Tribe under the Tribe's Constitution.

10-3.40.120 Surviving minor grandchildren. If at the time of the Assignee's death who has left no valid Will, there is no surviving spouse eligible to hold an Assignment under this Chapter and no surviving child or children eligible to hold an Assignment (or have it held for him, her, or them in trust), but there is one or more surviving minor grandchildren eligible to hold the Assignment, the Tribal Council may transfer at the time of the Assignee's death who has left no valid Will, the surviving grandchild or grandchildren of the Assignee is/are under the age of eighteen (18) and have no surviving parents but are otherwise eligible to receive a transfer or conveyance of the Assignment from the Tribal Council, the Tribal Council may transfer the Assignment to the grandchild(ren) minor(s) to be held in trust by his/her/their custodian who must reside on the Assignment with the grandchild(ren) minor(s). Within ninety (90) days of reaching eighteen (18) years of age, the eligible grandchild or grandchildren must apply for the Assignment to be granted to him/her/them. Such application must be approved by the Tribal Council on a form approved by the Tribal Council for that purpose and the Chair and Secretary of the Council shall execute an Assignment Deed to the surviving grandchild or grandchildren in the form required by Section 10-3.40.020 above.

10-3.40.130 Inheritance by Will. Notwithstanding any provisions in this Chapter to the contrary, an Assignee may designate by Will an heir or heirs who shall inherit the Assignee's Assignment. The Tribal Council shall reassign or convey the Assignment to the heir or heirs designated in the Assignee's Will provided the surviving heir or heirs are eligible to hold an Assignment under the provisions of this Chapter, the Will was executed in accordance with the laws of a state or federally recognized Indian Tribe and is valid, and providing further, that the surviving heir or heirs makes an timely application for the Assignment within ninety (90) days from date of death of the Assignee and files a copy of the Will with the Secretary of the Tribal Council along with the application. If the designated heir is the Assignee's surviving spouse or lineal descendent who is not eligible to receive an Assignment, such spouse or lineal descendent shall be given a life estate interest if he or she files a timely application. The Assignment shall escheat to the Tribe at the end of the life estate.

10-3.40.140 Escheat of assignment to Tribe. If the deceased Assignee's spouse, or children, or lineal descendants grandchildren are ineligible or fail to apply for the Assignment within the time periods set forth herein, or the deceased Assignee has left no heir eligible to receive said Assignment, said Assignment shall escheat revert back to the Tribe. There shall be no other beneficiaries.

10-3.40.150 Condemnation for Public Purpose. The Tribal Council may, at any time, after the approval of an Assignment and conveyance of an Assignment Deed, condemn all or part of the assigned land and the permanent improvements located thereon for a valid Public Purpose, provided however, that the Tribal Council, acting on behalf of the Tribe, has the land that is the subject of the Assignment and the permanent improvements located thereon appraised by an independent land appraiser and the Tribal Council pays the Assignee, in accordance with results of the appraisal report, the appraised fair market value for said land and the permanent improvements located thereon. No money need be paid if the land or part of the land is unimproved or without crops.

Section 10-3.50 Establishing Residency, Abandonment and Extension of Time

10-3.50.010 Establishing residency. An Assignee shall establish residence upon an Assignment within two (2) years from the date the Assignment was granted. Within the two (2) year period the Assignee shall pay for and cause to be surveyed by a Civil Engineer licensed by a state to survey land, the Residential Assignment. The Surveyor shall prepare a metes and bounds legal description for the Residential Assignment. The legal description shall be substituted for the description set forth in the Assignment Deed. If a legal description has already been prepared by a Civil Engineer for the Assignment, The Assignee shall be relieved of the requirement of surveying the Assignment required by this Section. If the Assignee does not have the Assignment surveyed within the time period set forth above, the Assignment shall be considered by the Tribal Council as abandoned. The Tribal Council, upon good cause, shall have the authority to grant one (1) extension of time up to one (1) year to allow the Assignee to comply with this Chapter and complete the survey required by this Section.

10-3.50.020 Abandonment of Assignment. Abandonment or continued non-use of the Assignment for a period of 12 months after establishing residency will result in the Assignment being automatically terminated and returned to the Tribe.

10-3.50.030 Extension of Time. An application for an extension of time under Sections 10-3.50.020 and 10-3.50.030 must be made in writing to the Tribal Council on a form approved by the Tribal Council for that purpose. Thirty (30) days from the date that an application for an extension of time is filed with the Secretary of the Tribal Council, the Secretary of the Tribal Council shall cause the matter to be set on the agenda for the next Tribal Council meeting for the Tribal Council's consideration. Fourteen (14) days prior to the date of the meeting at which the Tribal Council shall consider the extension of time, the Secretary of the Tribal Council shall send a written notice to the applicant setting forth the date, time and place where the request for an extension of time will be considered by the Tribal Council and advising the applicant that the applicant may appear to present whatever evidence he or/ she may have to the Tribal Council in support of the request. The Tribal Council shall grant the extension if it is necessary to obtain financing for the proposed development of the assigned land and the Assignee has provided the Tribal Council with evidence that reasonable efforts have been made by the Assignee to obtain said financing and for reasons beyond the control of the Assignee an extension is necessary. Any decision of the Tribal Council on the request shall be final and non-appealable.

Section 10-3.60 Assignment Restrictions

10-3.60.010 Rental of Assignment. An Assignee may not rent to another his or/ her Assignment or any portion thereof without the prior written consent of the Tribal Council.

10-3.60.020 Unlawful purpose. As Assignment may not be used for any unlawful purpose. Any use of the Assignment in violation of any applicable tribal, state or federal law shall be grounds for immediate termination or cancellation of the Assignment as set forth in Section 10-3.80 of this Ordinance.

Section 10-3.70 Improvements

10-3.70.010 Permanent improvements. Improvements, including but not limited to non HUD houses with concrete or other permanent foundations, barns, other structures, underground water and septic systems, trees, shrubs and other betterments physically attached to the land shall remain on the Assignment after cancellation or termination of the Assignment, unless removal is authorized by the Tribal Council.

10-3.70.020 Removal of improvements. Improvements including but not limited to: mobile homes, sheds, fences or other structures which are placed on the Assignment by the Assignee that are not placed on a permanent concrete foundation or physically integrated with the land are hereby deemed to be the personal property of the Assignee, and as such may be moved, sold, exchanged, given away, or bequeathed at discretion of the Assignee.

10-3.70.030 Time for removal of improvements by tribal member. If the Assignment is relinquished, canceled or vacated for any cause or reason, the removable-improvements of the Assignee, as defined in Section 10-3.70 above, must be removed or disposed of within ninety (90) days from the date of relinquishment, cancellation or vacation. Otherwise, the removal

improvements become a part of the real property, and ownership of the improvements' vests in the Tribe and becomes available for reassignment with the land.

10-3.70.040 Time for removal of improvements by non-member. When removable improvements on an Assignment come into ownership of an individual, who is not qualified to hold an Assignment in accordance with the provisions of this Chapter, the individual shall within ninety (90) days after receipt of a written notice by registered mail from the Tribal Council to sell, dispose of, or otherwise remove the improvements from the property. The failure by the individual to remove the improvements within the time specified herein shall result in the ownership of the improvements vesting in the Tribe. The Tribal Council may thereafter hold and dispose of said improvements in any lawful manner.

Section 10-3.80 Cancellation of Assignments

10-3.80.010 Review of Assignments by Planning Commission. The Planner shall review the use of all land Assignments on a continuing monthly basis and report any violations of the provisions of this Chapter to the Tribal Council. The Tribal Council shall initiate proceedings under this Chapter to cancel any Assignment which is being used in violation of this Chapter.

10-3.80.020 Cancellation of Assignment. An Assignment may be subject to cancellation by the Tribal Council in the event the holder of the Assignment or members of his or/ her household commit any of the following violations:

- (A) Transferring, assigning or exchanging an Assignment without the approval of the Tribal Council;
- (B) Illegally granting an easement, rights of way, lease hold interest or any interest across or to the Assignment;
- (C) Removing permanent improvements which are part of the real property of the Assignment without the prior approval of the Tribal Council;
- (D) Creating a public nuisance that endangers life or property and which the Tribal Council or Tribal Court orders to be abated by order of a court of competent jurisdiction;
- (E) Failure to establish residence or occupation within the time period specified in this Chapter;
- (F) The Assignee committing or allowing another person to commit a felony or a misdemeanor on the Assignment;
- (G) Continued non-use of the Assignment for the periods set forth in this Chapter;
- (H) Failure to comply with a lawful order of the Tribal Council or Tribal Court regarding the Assignment;

- (I) Asserting in any court or arbitration proceeding that the Reservation was not lawfully created or any portion thereof not lawfully restored to the equitable ownership of the Tribe.

Section 10-3.90 Procedures for Cancellation of Assignment

10-3.90.010 Notice of hearing. The Tribal Council shall by certified mail, return receipt requested, serve written notice upon the Assignee, at the Assignee's last known address, that the Assignment shall be cancelled except upon the showing by the Assignee that there is good cause for not canceling the assignment. The notice shall provide: (1) the nature of all alleged violations in reasonable detail; (2) an order directing the violator to appear before the Tribal Council to show cause why the Assignment should not be canceled; (3) that the Assignee has a right to be represented at the hearing before the Council by legal counsel; (4) that the Assignee has a right at the hearing to present evidence including the calling of witnesses on his or/ her behalf in support of his or/ her position; and (5) the date, time and place of the hearing.

10-3.90.020 Legal representation. The alleged violator shall have the right to be represented by legal counsel of his or/ her choice at his or/ her own expense at the hearing.

10-3.90.030 Continuation of Hearing. The violator may, for good cause, request one continuance of the hearing to a more convenient time, but not to exceed thirty (30) days, provided that the violator files his or her hearing request at last ten (10) days prior to the date scheduled for the hearing.

10-3.90.040 Hearing. The alleged violator shall be limited to a presentation on the specific violations and matters set forth in the Notice of Hearing and shall have the burden of establishing cause why the land Assignment should not be cancelled. At the conclusion of the hearing, the Tribal Council shall vote on whether to cancel the Assignment. The decision shall be supported by specific findings and shall be final administrative decision. The Secretary of the Tribal Council shall give written notice to the alleged violator of the Tribal Council's decision within ten (10) days from the date of the decision. The decision shall be sent to the person charged with the violation by certified mail, return receipt requested. The decision of the Tribal Council may be reviewed by the Tribal Court pursuant to the Tribe's administrative procedures ordinance and thereafter by an appropriate referendum election of the eligible voters of the Tribe under the Tribe's Constitution.

10-3.90.050 Removal of personal property after cancellation. In the event an Assignment is canceled, the Assignee shall be allowed not less than ninety (90) days from the date of the notice from the Tribal Council to notice from the Tribal Council to remove or dispose of any personal property located on the Assignment, unless the Assignee has filed an appropriate action in the Tribal Court or appropriate court of competent jurisdiction and has obtained a valid restraining order or injunction, enjoining enforcement of the Tribal Council's decision.

Section 10-3.100 Rights of Way

10-3.100.010 Existing leases, easements and rights of way. All assignments made under this Chapter shall be subject to all prior leases, easements or rights of way.

10-3.100.020 Right to grant future rights of way. The Tribe, through appropriate action of the Tribal Council, reserves the right to grant easements and rights of way over any Assignment for valid public purposes in accordance with the provisions of the Tribe's Constitution and applicable federal law. The Assignee shall be compensated for any damage to improvements or crops resulting from any grant of any right of way or easement for a valid public purpose. The amount of compensation shall be determined by the Tribal Council in accordance with the procedure set forth in Section 10-3.40.150 and their decision shall be a final administrative decision. Such decision may be reviewed by the Tribal Court pursuant to the Tribe's administrative procedures ordinance and thereafter by an appropriate referendum election of the eligible voters of the Tribe under the Tribe's Constitution.

Section 10-3.110 Natural Resources

10-3.110.010 Preservation of natural resources. All harvestable timber and mineable minerals, including sand, gravel, oil, gas, geothermal energy and other natural resources located on any land Assignment shall be reserved for development by the Tribe. No Assignee shall have the right to remove or extract any natural resources from any land Assignment without the express written approval of the Tribal Council and, where appropriate, the Secretary of the Interior.

Section 10-3.120 Tribal Court Jurisdiction

The Hopland Tribal Court shall have the exclusive jurisdiction and authority to hear any action brought by the Assignee to enforce the provisions of this Chapter or any term or condition set forth in any Assignment Deed. In resolving any issue in controversy arising under this Chapter, the Tribal Court shall look to and apply the laws of the Tribe, United States and State of California in that order.

Section 10-3.130 General Provisions

10-3.130.010 Severability. If any part or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

10-3.130.020 Repeal of All Prior Inconsistent Ordinances. All ordinances or resolutions previously enacted by the Council which are inconsistent with any of the provisions of this Ordinance are hereby repealed.

10-3.130.030 Effective Date. This Ordinance will take effect immediately after its passage.

10-3.130.040 Ratification. All prior land assignments approved by the Tribal Council pursuant to Ordinance No. 02-10-02 are hereby RATIFIED and AFFIRMED. All prior land assignments approved by the Tribal Council pursuant to Article IX, Section 4 of the Constitution of the Hopland Band of Pomo Indians are also hereby RATIFIED and AFFIRMED.

10-3.130.050 Amendment. This Ordinance may be amended by majority vote of the Tribal Council.

History: Ordinance No. 07-02-10; 13-05-16.

**HOPLAND BAND OF POMO INDIANS
LAND ASSIGNMENT ORDINANCE
RECONVEYANCE DEED**

Pursuant to Chapter 10-3 of the Hopland Tribal Code "Land Assignment Ordinance", _____ ("Assignee") hereby reconveys to the Hopland Band of Pomo Indians ("Tribe") any and all of Assignee's rights and interests granted to Assignee for Residential Assignment purposes in the Assignment Deed dated _____ and recorded in the Tribe's Assignment Deed Book at _____ for that real property owned by the United States of America in trust for the Tribe and more particularly described as follows:

_____ ("Property").

Assignee understands, intends, and agrees that by relinquishing Assignee's rights and interests in the Property for Residential Assignment purposes, Assignee is relinquishing any rights and interests that Assignee's spouse, children, grandchildren, or heirs otherwise may have in the Property for Residential Assignment purposes pursuant to the Land Assignment Ordinance or other Tribal, state, or federal law.

ASSIGNEE

(Signature) Date

(Print Name)

HOPLAND BAND OF POMO INDIANS

Chairman, Tribal Council Date

ATTEST:

Secretary, Tribal Council Date

**HOPLAND BAND OF POMO INDIANS
LAND ASSIGNMENT ORDINANCE
ASSIGNMENT DEED**

The Hopland Band of Pomo Indians, Assignor, hereby grants to _____, Assignee, all of the following described real property owned by the United States of America in trust for the Hopland Band of Pomo Indians for Residential Assignment purposes:

_____.

Pursuant to Section of Ordinance No, _____, "An Ordinance of the Tribal Council Limiting the Liability of the Tribe," The Tribal Council hereby expressly waives its sovereign immunity from suit for the sole purpose of allowing the Assignee, the Assignees' heirs or the Assignees' lawful assignee or transferee, to sue the Hopland Band of Pomo Indians, its officers, agents, and employees in Tribal Court for declaratory and injunctive relief or in the event and only in the event of a tribal condemnation action, for money damages, to enforce the provisions of this Assignment Deed and the provisions of the Hopland Ordinance "Adopting Land Assignment Regulations For Determining When And Under What Conditions Tribal Members Can Occupy Tribal Lands" ("Land Assignment Ordinance") that was or is in effect at the time this Assignment Deed was or is approved and which is hereby incorporated by this reference and attached hereto as Exhibit A. In any action brought to enforce the provisions of this Assignment Deed, the action shall be brought in the Hopland Tribal Court. In the event that the Hopland Tribal Court cannot hear the case for whatever reason, then the action can be brought in any court of competent jurisdiction. The limited waiver of sovereign immunity and the right of the Assignee or the Assignee's heirs or transferee to enforce the rights set forth herein shall survive the any repeal or amendment of the Land Assignment Ordinance which occurs after the issuance and execution of this Assignment.

HOPLAND BAND OF POMO INDIANS

Chairman, Tribal Council

Date

ATTEST:

Secretary, Tribal Council

Date

**AN ORDINANCE OF THE HOPLAND BAND OF POMO INDIANS
AUTHORIZING AND REGULATING GAMING ON THE HOPLAND INDIAN
RESERVATION**

The Hopland Band of Pomo Indians, a federally recognized Indian Tribe ("Tribe"), as the beneficial owner of the Hopland Indian Reservation, and acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Hopland Indian Reservation ("Reservation") and the members of the Tribe, hereby enacts this ordinance which shall hereinafter be cited as the Hopland Gaming Ordinance of 1996 ("Ordinance"). This Ordinance and any regulations promulgated thereunder shall constitute the entire gaming regulations for the Tribe.

Section 1. Findings and Policy.

This Ordinance is adopted by the Tribal Council, pursuant to its authority granted under the Tribes Constitution, for the purpose of establishing the terms for gaming on the Reservation for tribal governmental and charitable purposes, and to develop, operate, and regulate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act 25 U.S.C. § 2701 et seq. ("IGRA") and the regulations promulgated thereunder.

The Tribe finds that:

- a. Gaming on its Reservation is a valuable means of generating revenues that are needed for economic development, to promote tribal self-sufficiency, economic development, employment, job training, and a strong tribal government, and to fund and ensure essential social programs and services;
- b. The Tribe desires to conduct certain forms of gaming to provide needed revenues to the Tribe, and to regulate and control such gaming in a manner that will protect the environment, the Reservation, the health, security and general welfare of the Tribe, the players, and the community; and
- c. The Tribe desires to own all gaming on tribal lands, and to manage and regulate such gaming in a manner that will adequately address such special interests and needs of the Tribe.

Section 2. Ownership of Gaming.

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation facilities and/or enterprise(s) authorized by this Ordinance, except to the extent the Tribe may contract with and license a person or entity to, operate or manage the enterprise pursuant to the provisions of IGRA and the regulations promulgated thereunder, or as otherwise permitted by law.

Section 3. Definitions.

Unless specified otherwise, the terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Net Revenues," "Class I," "Class II," and "Class III" gaming, and except for references to "Commissioners", "Commission", or "Gaming Commission" which shall mean the Hopland Gaming Commission or its Commissioners, established and described herein.

a. "Closely Associated Independent Contractor" shall mean any contractor that shares common ownership, officers or directors with any management principal or person related thereto.)

b. "Gaming" shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

c. "Gaming Activities" shall mean any Class I, Class II, or Class III gaming activity conducted by or under the jurisdiction of the Tribe.

d. "Gaming Commission" shall mean the Hopland Gaming Commission, as established herein to monitor the Gaming Activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as required for the regulation of Gaming on the Reservation.

e. "Gaming Contractor" shall mean any person or entity that supplies gaming devices or other gaming equipment, personnel, or services (including gaming management or consulting services) to any gaming activity or enterprise.

f. "Gaming Enterprise" shall mean any gaming business, event, enterprise or activity conducted by or under the jurisdiction of the Tribe.

g. "Key Employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those person with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, and the four (4) most highly compensated persons in the Gaming Enterprise are included in the definition of key employees. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for key employees.

h. "National Indian Gaming Commission" ("NIGC") shall mean the commission established under IGRA.

i. "Net Revenues" shall mean gross gaming revenues from all Gaming Activities of a Gaming Enterprise, less amounts paid out as, or paid for, prizes and less total gaming-related operating expenses, excluding management fees.

j. "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

k. "Primary Management official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Enterprise; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for primary management officials. .

l. "Related to" shall refer to persons who are related as a father, mother, sister or brother.

m. "Reservation" shall mean all lands under the jurisdiction and control of the Tribe.

- n. "State" shall mean the State of California.
- o. "Tribal Council" shall mean the governing body of the Tribe, as set forth in the Tribe's Constitution.
- p. "Tribal Court" shall mean any court established by the Tribe to hear disputes or, if there is none that can exercise jurisdiction, then the Tribal Council.
- q. "Tribal Member" shall mean any duly enrolled member of the Tribe.

Section 4. Gaming Commission.

a. Establishment of Gaming Commission. There is established by the Tribe a Commission, acting under the authority of the Tribe, to be known as the Hopland Gaming Commission. The Gaming Commission shall be composed of (3) three voting members, who themselves qualify for a Class A Gaming License under this ordinance. The Gaming Commissioner shall be appointed by the Hopland Tribal Council.

b. Disqualifications for office. The following persons may not serve as Commissioners:

- (I) Employees of any Gaming Enterprise on the Reservation;
- (II) Persons related to any Gaming Contractor (including any principal thereof or Closely Associated Independent Contractor);
- (III) Members of the Tribal Council.
- (IV) Persons who are not Tribal Members.

c. Terms of Office. The Tribal Council shall appoint three (3) members to the Tribal Gaming Commission for a term of four (4) years, unless it is necessary to appoint members for a term of three (3) years in order to ensure that terms are staggered.

d. Removal from Office. Commissioners may only be removed from office before the expiration of their terms by the Tribal Council for neglect of duty, misconduct, malfeasance, or other acts that would render such persons unqualified for such duties or for licensure hereunder. Commissioners may not be removed for exercising their discretion or judgment or for how they voted on a particular issue. A Commissioner can only be removed from office by the Tribal Council in accordance with the procedures established in the Tribe's Constitution for removing Tribal Council members from office. At the request of the member whose removal is at issue, the hearing may be held in executive session. The Tribal Council may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law enforcement investigation, land acquisition for the Tribe or negotiations by the Tribe with a third party.

e. Quorum. Three (3) members of the Gaming Commission shall constitute a quorum.

f. Vacancies, Officers and Duties. ~~The Tribal Council shall appoint the Chairperson for the Gaming Commission by majority vote of the Tribal Council at a Regular Meeting. During the first Gaming Commission meeting of each year, t~~The Gaming Commission shall select, by majority vote, one Chairperson, Vice-Chair and Secretary. The commissioners shall serve in the officer position in which they were selected to fulfill for a one year the full term of their appointment, unless they are removed from office. Whenever an officer position becomes vacant in the middle of a year, the Gaming Commission shall select a Commissioner to hold that officer position until the first Gaming Commission meeting of the following year. A Commissioner vacancy shall be filled by appointment by the Tribal Council and such replacement shall serve the unexpired term of appointment. Whenever a Commissioner is temporarily unable to fulfill his or her duties, the Tribal Council shall appoint an interim Commissioner who shall serve until the Commissioner on leave is once again able to fulfill his or her duties.

CHAIRPERSON:

- (a) The Chairperson shall preside at all meetings of the Gaming Commission.

- (b) The Chairperson shall have general supervision of all officers and employees of the Hopland Gaming Commission and see that their duties are properly performed, according to a personnel manual developed and approved by the Tribal Council.
- (c) All administrative and personnel management shall be the responsibility of the Chairperson.
- (d) When the Gaming Commission is not in session, he/she shall be the official representative of the Hopland Gaming Commission.
- (e) ~~He/she~~ s shall meet monthly with the Tribal Council to present a monthly report updating the prior month's operational details to the Tribal Council. The monthly report shall include a financial report.

VICE-CHAIRPERSON:

- (a) The vice-chairperson, in the absence of the chairperson, shall have the power and authority of the chairperson and may, if authorized by the chairperson, assist the chairperson in the performance of his/her duties.
- (b) Shall meet monthly with the Tribal Council during the Chairperson's presentation of the monthly report updating the prior month's operational details to the Tribal Council.

SECRETARY:

- (a) The secretary shall keep the minutes of all Gaming Commission meetings.
- (b) Shall certify the enactment of all notices required by this ordinance.
- (c) Shall attend to the giving of notices approved by the Gaming Commission.
- (d) At the expiration of his/her duties in office, all records and papers in his/her possession shall be turned over to his/her successor of the Gaming Commission.
- (e) Shall meet monthly with the Tribal Council during the Chairperson's presentation of the monthly report updating the prior month's operational details to the Tribal Council.

g. Voting. All actions of the Gaming Commission shall be taken by a majority vote of the members present. Actions of the Gaming Commission shall be taken only where a quorum is present at the time of the vote.

h. Meetings. Meetings shall be held on the 1st Tuesday of the month at the Gaming Commission's primary meeting facility. Additional meetings shall be held as called by the Chairperson by at least two (2) other Commissioners. Notice of meetings shall be given in writing to each Commissioner, served by **first** class mail or personal delivery at least five (5) business days prior to such meeting. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners.

i. Compensation for Serving. The Tribal Council shall determine and authorize the compensation to be paid to Commissioners by adoption from time to time of a resolution based on a determination of time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

j. Powers and Duties.

The Gaming Commission shall have the power and duty to:

- (1) Inspect, examine and monitor Gaming Activities, including the power to demand access to and inspect, exc., nine, photocopy and audit all papers, books and records, respecting such Gaming Activities;
- (2) Investigate any suspicion of wrongdoing in connection with any Gaming

Activities;

(3) Conduct, or cause to be conducted, such investigations as may be necessary to determine in connection with any Gaming Activities, compliance with law or this Ordinance or any contracts, agreements, goods, services, events, incidents, or other matters related to gaming Activities;

(4) Conduct, or cause to be conducted, background investigations regarding any person in any way connected with any Gaming Activities and issue licenses to, at minimum, all Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 C.F.R. parts 556 and 558;

(5) Hold such hearings, sit and act at such times and places, summon persons on the Reservation to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties;

(6) Administer oaths or affirmations to witnesses appearing before the Gaming Commission;

(7) Implement and administer a system for investigating, licensing and monitoring employees and others connected with Gaming Activities, as described below, including the issuance of licenses to gaming facilities, individuals and entities as required under this Ordinance and IGRA;

(8) Hear patron complaints against the gaming establishment, in accordance with the procedures established in this Ordinance;

(9) Subject to the appropriation of funds by the Tribal Council, adopt a budget to finance the operations of the Gaming Commission including but not limited to the employment of such staff and support services as reasonably required to fulfill its responsibilities under this Ordinance; compensation of such employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies;

(10) To the extent required, comply with any reporting requirements established under a tribal-state compact to which the Tribe is a party and other applicable law, including the IGRA;

(11) Promulgate and issue such regulations as it deems appropriate, in order to implement and enforce the provision; of this Ordinance including, but not limited to, adopting rules of procedure governing how its meetings will be conducted;

(12) Promulgate regulations establishing minimum standards for the operation of any Gaming Activities conducted on the Reservation including but not limited to auditing, internal fiscal controls, technical standards for electronic gaming and describing and establishing rules for each Class II or Class III game authorized to be conducted on the Reservation, and no form of such gaming may be conducted on the Reservation without the prior approval of the Gaming Commission;

(13) Carry out such other duties with respect to Gaming Activities on the Reservation as the Tribal Council shall direct from time to time by amendment to this Ordinance or adoption of a written policy resolution;

(14) Levy a tax or fee on Gaming Activities and applicants for gaming licenses to cover the cost of conducting background investigations, issuing gaming licenses to persons engaged or wishing to engage in Gaming Activities on the Reservation, and funding the operation of the Commission; and

(15) Levy fines for violations of this Ordinance or the Gaming Commissions regulations.

k. Annual Reports. On or before April 30th of each year, the Gaming Commission shall provide to the Tribal Council an Annual Report summarizing its activities during the prior twelve (12) month period ending on December 31st, and accounting for all receipts and disbursements. The Tribal Council shall cause copies of the Annual Report to be made available to Tribal Members within thirty (30) days after receipt.

l. Other Reporting Requirements. As required, the Gaming Commission shall comply with any reporting requirements established under a tribal-state compact to which the Tribe is a party, and other applicable law, including the IGRA and regulations promulgated thereunder.

Section 5. Permitted Gaming Activities.

a. Unauthorized Gaming Prohibited. All Gaming Activities on the Reservation (whether Class I, II or III) are prohibited except as expressly authorized under this Ordinance.

(1) Class I Gaming. Class I Gaming is: (a) social games played solely for prizes of minimal value; or (b) traditional forms of Indian Gaming when played by individuals in connection with Tribal Ceremonies or celebrations. The Gaming Commission may prohibit and prevent any conduct which is claimed to be Class I gaming if the Tribal Council finds that such conduct is not in accordance with tribal customs or practices or violates IGRA.

(2) Class II and Class III Gaming. Class II and Class III gaming on the Reservation is hereby authorized, provided the Tribe has the sole proprietary interest in and responsibility for the conduct of any gaming enterprise, or to the extent the Tribe may contract with and licensed a person or entity to own, operate or manage the enterprise pursuant to the provisions of IGRA or as otherwise permitted by law. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees thereof or engaging any person or entity to provide consulting or other technical assistance or to assist the Tribe in the management of Gaming Activities pursuant to a management agreement entered into under the provisions of IGRA. Class III gaming shall be conducted in accordance with any tribal-state compact between the Tribe and the State, or any alternative thereto as provided by IGRA.

Section 6. Gaming Revenues

a. Tribal Property. Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all revenues generated from any Class II or Class III Gaming Activities are the property of the Tribe. Any profits or net revenues from Gaming Activities shall be deposited into the Tribe's general treasury or such other tribal account as the Tribe shall determine. Once becoming part of the treasury such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such in order to comply with applicable law. No Tribal Member shall be deemed to have any interest in such profits or net revenues, provided that the Tribal Council may adopt rules for distributing gaming proceeds to Tribal Members on a per capita basis provided such plan meets the requirements of IGRA, 25 U.S.C. § 2710 (b)(3). Payments from the general treasury funds to Tribal

Members under other tribal programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed to be per capita payments.

b. Use of Net Revenues. Net Revenues from Gaming Activities shall not be used for purposes other than:

- (1) To fund tribal government operations or programs;
- (2) To provide for the general welfare of the Tribe and its members; (3) To promote economic development for the Tribe;
- (4) To donate to charitable organizations;
- (5) To help fund operations of local government agencies; or
- (6) To make per capita distributions to Tribal Members in accordance with Section 6(a) above.

Section 7. Operation of Gaming Establishments.

a. Gaming Permitted as Licensed. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in tribally owned, operated and licensed facilities pursuant to the provisions of this Ordinance. Such activities shall be conducted in accordance with the terms and conditions of any license issued by the Tribe or Gaming Commission for such purposes as to each facility before any Gaming Activities may occur therein. Such licenses shall specify the hours of operation, type and scope of Gaming Activities allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, regulation of alcoholic beverages, food handling and entertainment, and such other matters as the Gaming Commission or the Tribal Council may deem necessary to the conduct of Gaming Activities therein.

b. Protection of Environment and Public. Any construction or maintenance of any gaming facility, and the operation or gaming therein, shall be in accordance with the Uniform Building Codes and conducted in a manner which adequately protects the environment and the public health and safety.

c. Dispute Resolution. Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. For such purposes, disputes with any management contractor or its employees shall be made to the Gaming Commission, and such shall be the exclusive remedy for patron complaints. Complaints shall be submitted in writing and, at the discretion of the Gaming Commission, the petitioner may be allowed to present evidence. The Gaming Commission will render a decision in a timely fashion and all such decisions will be final when issued. Any patron having a claim against the gaming establishment or a management contractor or its employees must submit such claim to the Gaming Commission within thirty (30) days of its occurrence or within such time periods as the Commission shall establish by regulation. All claims by patrons shall be limited to a maximum recovery of \$10,000 per occurrence, and a cumulative limit of \$20,000 per patron in any twelve (12) month period.

Section B. Audits.

a. Annual Audits. Annual outside auditing by a recognized independent accounting firm shall be conducted of each gaming activity and the results thereof reported to the Tribal Council, and, to the extent required by law, the Bureau of Indian Affairs and the NIGC.

The selection of the independent accounting firm shall be conducted in accordance to the Tribe's audit committee charter and with final approval by the Tribal Council.

Section 9. Contracts.

a. Bidding. Contracts relating to Gaming Activities over \$25,000 or for more than five (5) years (except contracts for professional legal or accounting services) shall be subject to a formal, sealed bidding process prior to submission to the Tribal Council for approval. All reasonable attempts shall be made to obtain and consider at least three (3) responsible bids; provided, the Gaming Commission may waive the requirement for three bids upon good cause shown.

b. Audit Requirements. All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming on the Reservation shall be subject to independent audits, and such contracts shall so specify.

Section 10. Licenses.

a. Licensing Requirements. It is the declared policy of the Tribe that all Gaming Activities be licensed and controlled so as to protect the morals, good order and welfare of Tribal Members and other persons on the Reservation and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person shall engage in any Class II or Class III Gaming Activities on the Reservation without an appropriate and valid independent Class II or class III license issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission, shall be deemed a privilege subject to suspension or revocation. No license shall be issued that would place the Tribe in violation the IGRA and regulations promulgated thereunder and, as applicable, provisions of a tribal-state compact, or of any applicable law. The Gaming Commission shall promulgate regulations establishing minimum standards for the issuance of all gaming licenses required under this Ordinance.

b. Applicant Claim of Privilege. An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

c. Release of Information. All persons applying for a license shall agree to release the information necessary in order for the Gaming Commission to achieve its goals under this Ordinance, and to furnish such information to the Bureau of Indian Affairs, the NIGC, or such other governmental agency as may be required by law.

d. Types of Licenses. Three classes of licenses (Class A, Class B, and Class C) shall be issued to persons and entities associated with Gaming Activities.

(1) Class A Licenses. Before permitting any person to become permanently associated with the Gaming Activities as an investor, management entity, or other person owning or controlling ten percent (10%) or more of any interest in any management entity, or any Primary Management Official, Key Employee, Closely Associated Independent Contractor, or other individual or entity with influence over the management or operation of the gaming, or a Class II or III gaming employee, supplier, manufacturer or distributor, such person shall obtain a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(a) Any criminal record or any reputation, prior activities, habits

or associations which might pose a threat to the public interest or to the effective regulation of gaming.

(b) Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

(2) Class B Licenses. Persons who are not among those identified in subsection (1) above, but are to be employed at a gaming facility on the Reservation in some other capacity, such as in non-gaming related activities, shall be required to obtain a Class B license from the Gaming Commission. Such persons must establish that they have not been convicted of a crime, or engaged in any activity, which the Gaming Commission in its sole discretion deems would render such person a danger to the safety or integrity of the Gaming Activities or the safety or property of the Tribe, any Tribal Member, any gaming employee or patron, or the public.

(3) Class C Licenses. Minors (persons under 18 years of age) employed at a gaming facility on the Reservation may be issued a Class C license, which will entitle them to work in any position for which a Class B license is required for adults and not otherwise prohibited by law, provided such minors are not deemed by the Gaming Commission to pose any threat to the safety or integrity of the Gaming Activities or the safety or property of the Tribe, any Tribal Member, any gaming employee or patron, or the public. The Class C license shall be valid for no more than six (6) months before renewal, and shall be revoked upon the minor's reaching the age of 18, at which time a Class A or B license, as may be appropriate, will be required. Minors shall not be employed as dealers or otherwise to operate or supervise the operations of games, or to serve liquor.

e. License Renewal. Class A and Class B licenses shall be subject to renewal at least every two (2) years, and may be revoked or suspended upon the occurrence of any act which, if known during the application process, would have tended to disqualify such person for such a license.

f. Temporary Licenses. Pending completion of an investigation for a license, temporary licenses of no more than ninety (90) days duration may be issued by the Gaming Commission if in its sole discretion it deems it appropriate to do so. Such licenses shall permit the licensee to engage in such activities and pursuant to such terms and conditions as may be specified by the Gaming Commission. Such temporary licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or until an earlier specified expiration date, whichever occurs first.

g. License Investigations. The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information necessary to determine whether or not a license should be issued. Applicants shall also agree to release the information necessary in order for the Gaming Commission to achieve its goals under this section and to furnish such information to the NIGC, or such other agency as may be required bylaw.

h. License Fees. HGC will receive, from the applicant, payments in full or establish a payment plan for all reasonable fees and costs prior to issuing a license. Estimates of licensing costs shall be provided to applicants upon reasonable request. Payment for all reasonable fees and costs must be received by the Gaming Commission prior to issuance of the license.

i. Appeals. Licenses - All decisions of the Gaming Commission regarding the issuance or revocation of licenses shall be effective when issued. An applicant or licensee whose license is denied, revoked or suspended may, within thirty (30) days after the date of receipt of a written decision of the Gaming Commission, file a petition with the Gaming Commission requesting a hearing to reconsider the decision, and shall have the right to appeal such decision to the Tribal Court in accordance with such rules and regulations as may be promulgated by the Tribal Court for that purpose. Any Tribal Member who is denied a license by the Gaming Commission may, within sixty (60) days of written notice of such denial, appeal the denial to the Gaming Commission, which shall have the power to reverse its prior decision and order that such license be issued, and shall have the right to appeal such decision to the Tribal Court, provided that no such license shall be issued for more than one (1) year,

subject to the renewal procedures set forth herein, and provided further that no order of the Gaming Commission or Tribal Court that a license be issued shall be valid if such issuance would place the Tribe in violation of any tribal-state compact to which the Tribe is a party, or of any applicable law. The standard of review by the Tribal Court of all Gaming Commission decisions shall be "clearly contrary to the law" or "abuse of discretion."

***All other decisions, actions or inaction contrary to an ordinance, policy or regulation will be subject to Tribal Court review in accordance to Tribal law; the decision of the Tribal Court shall be final.

j. Background Investigations.

(1) The Gaming Commission shall request from each Primary Management Official and Each Key Employee all of the information specified in subsections (a) through (n) below. Further, each other applicant for a Class A license, except as provided otherwise by the Gaming Commission, shall also submit the information specified in (a through (n) below. The Gaming Commission reserves the right, at any time, to request additional information either prior to, during, or subsequent to any background investigation.

(a) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

(b) Currently and for at least the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license number(s);

(c) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence as listed under subsection (b) above;

(d) Current business and residence telephone numbers;

(e) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(f) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(g) Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(h) For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;

(i) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application: the name and address of the court involved, and the date and disposition, if any, of the case;

(j) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction, if such criminal charge is within ten (10) years of

the date of the application and is not otherwise listed above pursuant to subsections (h) or (i) above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;

(k) Name and address of any licensing or regulatory agency {federal, tribal, state, local or foreign} with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(l) Current photographs;

(m) Any other information the Tribe or Gaming Commission deems relevant; and

(n) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h).

(2) The Tribe shall conduct or cause to be conducted an investigation, through the Gaming Commission, sufficient to make a determination of eligibility as required under this Ordinance. In conducting the background investigation, the Gaming Commission and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(3) The Gaming Commission shall employ background investigators who shall be certified by the Department of Justice to roll finger prints so they may take applicant fingerprints and forward them to the NIGC, to be forwarded to the Federal Bureau of Investigation, National Criminal Information Center, for review of the applicant's criminal history, and perform or arrange to have performed the necessary background investigation of the applicant required by this Ordinance. Such investigation shall include contacting each reference provided in the application and taking all appropriate steps necessary to verify the accuracy of the information contained in the application. There shall be a written investigation report of the findings and conclusions of each investigation. The investigative report shall include (1) the steps taken in conducting a background investigation; (2) the results obtained; (3) the conclusions reached; and (4) the basis for the conclusions. The Gaming Commission shall review the findings and conclusions of the report for the purpose of determining whether to grant or deny the license applied for.

k. Eligibility Determination. The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official for employment in a gaming operation. If the Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Gaming Enterprise shall not employ that person in a Key Employee or Primary Management Official position or in any other position for which a Class A license is required, except as specifically established by the Gaming Commission.

I. Forwarding Licensing Applications and Reports to NIGC

(1) On or before the date a Key Employee or Primary Management Official is employed by a Gaming Enterprise authorized under this Ordinance, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC the person's completed application for employment containing the information required above under Section 10. of this Ordinance.

(2) Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC, together with a copy of the eligibility determination made under subsection 10.1. above, an investigative report on each background investigation. The investigative report on each background investigation shall be forwarded to the NIGC within sixty (6) days after the employee begins work, or within sixty (60) days of the approval of this Ordinance by the NIGC. The Gaming Enterprise shall not employ or continue to employ any person as a Key Employee or Primary Management Official who does not have a license within ninety (90) days from his/her starting date of work.

The investigative report shall include the following information:

- (a) Steps taken in conducting a background investigation; (b) Results obtained;
- (c) Conclusions reached; and
- (d) The bases for those conclusions.

(3) The Gaming Commission, acting on behalf of the Tribe, shall provide to the NIGC or other agency, any other reports and information required by IGRA and regulations promulgated thereunder. Further, with respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.

(4) If a license is not issued to an applicant, the Gaming commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

m. Granting a Gaming License.

(1) If, within a thirty (30) day period after the NIGC receives a report as required under subsection 10.1. above, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to the license application filed for a Key Employee or Primary Management Official for whom the Gaming Commission has provided an application and investigative report, the Gaming Commission may issue the license.

(2) The Gaming Commission shall provide any additional information requested by the NIGC concerning a Key Employee or Primary Management Official who is the subject of a report as required under this subsection. An NIGC request for additional information shall suspend the thirty (30) day period established under this subsection until the NIGC receives the additional information.

(3) If, within the thirty (30) day period established under this subsection, the NIGC provides a statement itemizing objections to issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission retains the right to make the final determination whether to issue the license to such applicant.

n. Objections by NIGC.

(1) If, after issuance of a gaming license, the Tribe receives reliable information

from the NIGC or other reliable source indicating that a Key Employee or a Primary Management Official is not eligible for employment under the eligibility criteria established in section 10. above, the Gaming Commission shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

(2) The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

(3) After the revocation hearing, the Gaming Commission shall determine whether to revoke or to reinstate the gaming license. For actions taken in response to information provided by the NIGC, the Gaming Commission shall notify the NIGC of its decision.

o. Facilities Licenses. A separate license shall be required for each place, facility, or location on any land where Class II and/or Class III gaming is to be conducted on the Reservation. Before Class II or Class III Gaming Activities can be conducted therein, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance and any requirements of IGRA.

Section 11. Application Forms.

a. Each application form for a Key Employee or a Primary Management Official, as well as for all other Class A license applicants, unless otherwise specifically exempted by the Gaming Commission, shall contain the notices set forth in subsections (1) and (2) below:

(1) Privacy Ordinance Notice: In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 92701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's being unable to hire you in a Primary Management Official or Key Employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(2) Notice Regarding False Statements. A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, § 1001)

b. Any existing Key Employee or Primary Management Official, or any other Class A licensee unless otherwise specifically exempted by the Gaming Commission, that has not completed an application form containing the language set forth in Section 11.a.(1) and (2) above, shall be notified that they must either:

(1) Complete a new application form that contains the Privacy Ordinance Notice and the Notice Regarding False Statements; or

(2) Sign a statement that contains  Privacy Ordinance Notice and consent to the

routine uses described in that notice, and sign a statement that contains the Notice Regarding False Statements.

Section 12. Class III Gaming: Tribal-State Compacts.

In addition to the provisions set forth above, no Class III gaming shall be engaged in on the Reservation unless a tribal-state compact has first been obtained in accordance with the IGRA. All negotiations for such compacts shall be conducted through the Tribal Council, with the advice and suggestion of the Gaming Commission, and shall be finalized in accordance with tribal law. To the extent any provision of a tribal-state compact is inconsistent with the provisions of this Ordinance, such compact shall prevail and shall be deemed incorporated by reference herein.

Section 13. Interest in Management Contracts by Tribal Officials.

No elected official of the Tribe, including the Gaming Commission or any other committee or agency of the Tribe, shall have a financial interest in or management responsibility for, any management agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract.

Section 14. Service of Process.

The Tribe designates as its agent for the service of any official determination, order, or notice of violation, the Chairperson of the Tribe.

Section 15. Tribal Gaming Corporation.

Nothing in this Ordinance shall prevent the Tribe, through its Tribal Council, from delegating the authority to conduct Gaming to one or more tribal corporations, so long as the tribal Gaming Enterprises to which such authority is delegated agree to meet all criteria and requirements established under this Ordinance.

Section 16. Repeal of All Prior or Inconsistent Ordinances.

The provisions of any ordinances or resolutions previously enacted by the Tribal Council that are inconsistent with any provisions of this Ordinance are hereby repealed.

Section 17. Severability.

If any part of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

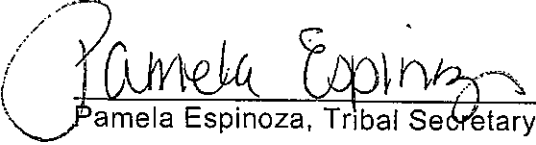
Section 18. Amendments.

All provisions of this Ordinance are subject to revision, repeal, or amendment by the Tribal Council at any time. Regulations promulgated by the Gaming Commission under this Ordinance are subject to revision, repeal or amendment by the Gaming commission at any time.

CERTIFICATION

We, Roman W. Carrillo Jr., Tribal Chair, and Pamela Espinoza, Tribal Secretary, serving in our official capacities for the Hopland Band of Pomo Indians, hereby certify that the foregoing ordinance was enacted by a vote of **2** in favor, **0** against, and **0** disqualified, at a duly-noticed meeting of the Tribal Council with a quorum present held on **April 23, 2008**, at the Hopland Indian Reservation.

Roman W. Carrillo Jr., Tribal Chair


Pamela Espinoza, Tribal Secretary

O

Hopland Band of Pomo Indians

PO Box 610, Hopland, California 95440 Phone (707) 744-1647 Fax (707) 744-9101

TITLE 11 SECTION 8

ORDINANCE NO. 8-03-2000-A

HOPLAND BAND OF POMO INDIANS TRIBAL GAMING COMMISSION COMPACT AUTHORITY ORDINANCE

WHEREAS, The Hopland Band of Pomo Indians ("the Tribe") is a party to a Tribal-State Class III gaming compact with the State of California ("the Compact") which became effective on May 16, 2000;

WHEREAS, The Compact requires that the Tribe authorize the Tribal Gaming Commission ("Commission") to adopt, implement and enforce rules and regulations or specifications for the protection of the integrity of the Tribe's gaming enterprise, and for the protection of the public;

WHEREAS, The Tribal Council is the governing body of the Hopland Band of Pomo Indians;

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED AS FOLLOWS:

DEFINITIONS

"Gaming Facility." As used in this Ordinance, "Gaming Facility" or "Facility" means any building in which Class III gaming activities or gaming operations occur pursuant to the Compact, or in which the business records, receipts, or other fiends of the Compacted Class III gaining operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.

"Gaming Operation." As used in this Ordinance "Gaming Operation" means the Tribe's business enterprise(s) that offer(s) and operate(s) Class III Gaming Activities, whether exclusively or otherwise.

GAMING COMMISSION AUTHORITY

1. **Hopland Gaming Commission Authority - Compact Violations.** [Compact Section 7.21]

The Tribal Gaming Commission shall investigate any reported violation of the Compact and shall require the Gaming Operation to correct the violation upon such terms and conditions as the Commission determines are necessary, in a manner consistent with the Compact and with tribal and federal law. The Commission is hereby authorized and directed to promulgate

regulations consistent with the Tribal Gaming Ordinance and all other tribal laws, pursuant to which it may impose reasonable fines or other sanctions within the jurisdiction of the Tribe against gaming licensees or other persons who interfere with or violate the Tribe's gaming regulatory requirements and obligations under IGRA, the Tribal Gaming ordinance, or the Compact. In doing so, the Commission shall ensure that all persons or entities affected by any such imposition of fines or other sanctions are afforded due process of law. After providing notice of its intent to do so to the Tribal Council, the Commission shall report significant or continued violations of the Compact or failures to comply with its orders to the State Gaming Agency.

2. Hopland Gaming Commission Regulations: Adoption of Regulations for Operation and. Management; Minimum Standards.

In order to meet the goals set forth in the Compact and required of the Tribe by law, the Commission is hereby authorized and directed to promulgate, and shall promulgate, at a minimum, rules and regulations or specifications governing the following subjects, and to ensure their enforcement in an effective manner:

- A. **Compact Section 8.1.1.** The enforcement of all relevant laws and rules with respect to the Gaming Operation and Facility, and the power to conduct investigations and hearings with respect thereto, and to any other subject within its jurisdiction.
- B. **Compact Section 8.1.2.** Ensuring the physical safety of Gaming Operation patrons and employees, and any other person while in the Gaming Facility. Nothing herein shall be construed to make applicable to the Tribe any state laws, regulations, or standards governing the use of tobacco.
- C. **Compact Section 8.1.3.** The physical safeguarding of assets transported to, within, and from the Gaming Facility.
- D. **Compact Section 8.1.4.** The prevention of illegal activity within the Gaming Facility or with regard to the Gaming Operation, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided below.
- E. **Compact Section 8.1.5.** The recording of any and all occurrences within the Gaming Facility that deviate from normal operating policies and procedures (hereafter "incidents"). The procedure for recording incidents shall: (1) specify that security personnel record all incidents, regardless of an employee's determination that the incident may be immaterial (all incidents shall be identified in writing); (2) require the assignment of a sequential number to each report; (3) provide for permanent reporting in indelible ink in a bound notebook from which pages cannot be removed and in which entries are made on each side of each page; and (4) require that each report include, at a minimum, all of the following:
 - (a) The record number.
 - (b) The date.
 - (c) The time.
 - (d) The location of the incident.

- (e) A detailed description of the incident.
 - (f) The persons involved in the incident.
 - (g) The security department employee assigned to the incident.
- F. **Compact Section 8.1.6.** The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practice.
- G. **Compact Section 8.1.7.** Maintenance of a list of persons barred from the Gaming Facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the Gaming Activities of the Tribe or to the integrity of regulated gaming within the State.
- H. **Compact Section 8.1.8.** The conduct of an audit of the Gaming Operation, not less than annually, by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants.
- I. **Compact Section 8.1.9.** Submission to, and prior approval by the Commission of, the rules and regulations of each Class III game to be operated by the Tribe, and of any changes in those rules and regulations. No Class III game may be played that has not received Commission approval.
- J. **Compact Section 8.1.10.** Addressing all of the following:
 - (a) Maintenance of a copy of the rules, regulations, and procedures for each game as played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners;
 - (b) Specifications and standards to ensure that information regarding the method of play, odds, and payoff determinations shall be visibly displayed or available to patrons in written form in the Gaming Facility;
 - (c) Specifications ensuring that betting limits applicable to any gaming station shall be displayed at that gaming station;
 - (d) Procedures ensuring that in the event of a patron dispute over the application of any gaming rule or regulation, the matter shall be handled in accordance with industry practice and principles of fairness, pursuant to the Tribal Gaming Ordinance and any rules and regulations promulgated by the Commission.
- K. **Compact Section 8.1.11.** Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Commission. The Commission shall have current copies of the Gaming Facility floor plan and closed-circuit television system at all times, and any modifications thereof first shall be approved by the Commission.
- L. **Compact Section 8.1.12.** Maintenance of a cashier's cage in accordance with industry standards for such facilities.

M. **Compact Section 8.1.13.** Specification of minimum staff and supervisory requirements for each Gaming Activity to be conducted.

N. **Compact Section 8.1.14.** Technical standards and specifications for the operation of Gaming Devices and other games authorized herein to be conducted by the Tribe, which technical specifications may be no less stringent than those approved by a recognized gaming testing laboratory in the gaming industry.

3. **No Submission to Jurisdiction, Waiver of Sovereign Immunity or Impairment of Sovereignty.**

Nothing in this Ordinance shall be deemed to submit the Tribe to the jurisdiction of the State of California or any other governmental entity, or to waive the sovereign immunity of the Tribe or otherwise impair its sovereignty.

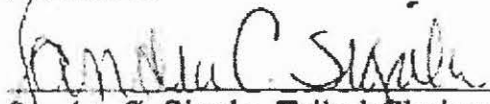
4. **Effective Immediately.**

This Ordinance shall be effective immediately.

CERTIFICATION

This is to certify that this Ordinance was adopted by the Hopland Tribal Council, at a duly noticed meeting at which a quorum was present, on August 3, 2000, by a vote of 6 in favor, 0 opposed and 9 abstaining.

ATTEST:


Sandra C. Sigala, Tribal Chairperson

8-3-00
Date


Deborah Rivera, Tribal Secretary

8-3-00
Date

Hopland Band of Pomo Indians

PO Box 610, Hopland, California 95449 Phone (707) 744-1647 Fax (707) 744-9101

TITLE 11 SECTION 9

ORDINANCE NO. 8-03-2000-B

ORDINANCE CONFIRMING APPLICABILITY OF ARTICLE 6, CHAPTER 1, PART 4 OF THE CALIFORNIA PENAL CODE TO THE HOPLAND TRIBAL GAMING COMMISSION (COMPACT SECTION 6.4.8 -- CLETS ORDINANCE)

- WHEREAS, the Hopland Band of Pomo Indians ("the Tribe") has entered into a Class III gaming compact ("the Compact") with the State of California;
- WHEREAS, The Tribe's Gaming Ordinance, federal law, and Section 6.4.8 of the Compact require the Tribal Gaming Commission to conduct background investigations of applicants for licensure by the Tribal Gaming Commission;
- WHEREAS, The Tribal Gaming Commission's ability to conduct thorough background investigations would be enhanced if it were able to obtain summary criminal history information from the California Department of Justice under California Penal Code 11105(b)(12); and
- WHEREAS, The Compact conditions the Tribal Gaming Commission's eligibility to receive state summary criminal history information upon the enactment of a Tribal ordinance confirming that Article 6 of Chapter 1 of Title I of Part 4 of the California Penal Code is applicable to members, investigators and staff of the tribal gaming agency.

NOW, THEREFORE, BE IT ORDAINED THAT:

1. The Hopland Band of Pomo Indians confirms that Article 6 of Chapter 1 of Title I of Part 4 of the California Penal Code is applicable to members, investigators and staff of the tribal gaming agency, which is known as the Hopland Gaming Commission; and
2. Nothing in this Ordinance shall be deemed to submit the Tribe to the jurisdiction of the State of California or any other governmental entity, or to waive the sovereign immunity of the Tribe or otherwise impair its sovereignty.
3. This Ordinance shall be effective immediately.

CERTIFICATION

This is to certify that the foregoing Ordinance was adopted by the Hopland Tribal Council, at a duly noticed meeting at which a quorum was present, on August 3, 2000, by a vote of 6 in favor, 0 opposed and 0 abstaining.

ATTEST:

Sandra C. Sigala
Sandra C. Sigala, Tribal Chairperson

8-3-00
Date

Deborah Rivera
Deborah Rivera, Tribal Secretary

8-3-00
Date

Hopland Band of Pomo Indians

PO Box 610, Hopland, California 95449 Phone (707) 744-1647 Fax (707) 744-1506

TITLE 11

SECTION 11

ORDINANCE NO. 00-23-08

HOPLAND ENVIRONMENTAL POLICY ORDINANCE FOR GAMING FACILITY DEVELOPMENT

[Tribal State Gaming Compact Section 10.8.11]

WHEREAS, The Tribal-State Gaming Compact ("Compact") between the Hopland Band of Pomo Indians ("Tribe"), a federally recognized Indian tribe, and the State of California, requires at Section 10.8.1 that the Tribe "adopt an ordinance providing for the preparation, circulation, and consideration by the Tribe of environmental impact reports concerning potential off-Reservation environmental impacts of any and all Projects to be commenced on or after the effective date of this Compact," and that the Tribe shall "make a good faith effort to incorporate the policies and purposes of the National Environmental Policy Act and the California Environmental Quality Act consistent with the Tribe's governmental interests;" and

WHEREAS, the Tribe desires and intends to comply in every respect with the terms and conditions of the Compact,

NOW, THEREFORE, the Hopland Band of Pomo Indians hereby enacts this Ordinance governing procedures related to potential off-Reservation environmental impacts of tribal gaming projects, and ordains as follows:

A. Title: This Ordinance shall be entitled "Hopland Environmental Policy Ordinance For Gaming Facility Development." All capitalized terms have the meanings set forth below under *Definitions*.

B. Purpose: The Tribe hereby establishes a uniform policy for the preparation, circulation, and consideration by the Tribal Council of a document which evaluates potential off Reservation environmental effects of any and all Projects to be commenced on or after the effective date of the Compact. The goal of the environmental review process established herein is to ensure that when the Tribal Council makes a final decision as to whether, and under what conditions, to approve an on-Reservation Project, it is fully informed in making that decision regarding the potential off-Reservation environmental effects of that Project and the project alternatives, as well as the cost and benefits of the Project and its alternatives. This Ordinance is intended to satisfy the Tribe's obligations under Section 10.8.1 of the tribal-state gaming Compact between the Tribe and the State of California.

C. Statement of Environmental Policy. The Tribal Council finds, determines

and declares:

1. It is the policy of the Tribe to protect the natural environment, including the land, air, water, minerals, and all living things, on the Reservation, and to take into account in the Tribal decision-making process the potential off Reservation effect of on-Reservation Projects undertaken by the Tribe.

2. While it is also an important policy of the Tribe to promote the economic development of the Reservation for the benefit of both the Tribe and its members, the Tribal Council recognizes that development activities on the Reservation may have a direct impact on the health, welfare and safety of the Tribe and its members, and on the environment both on the Reservation, and, to a lesser extent, off the Reservation.

D. Authority: This Ordinance is enacted under the inherent sovereign authority of the Hopland Band of Pomo Indians.

E. Definitions: For the purpose of this Ordinance, the following words or phrases shall have the following definitions:

1. *Compact*: The tribal-state compact for the conduct of class III tribal governmental gaming by the Tribe between the State of California and the Tribe, which became effective on May 16, 2000.

2. *Environmental Evaluation*: An informational document which (a) identifies all potential significant off-Reservation environmental impacts of a proposed Project, (b) discusses the nature and seriousness of each such impact, (c) considers alternative means of mitigating each such impact, and (d) to the extent feasible, discusses the views and comments of interested parties and governmental agencies on such impacts and their mitigation.

3. *Gaming Facility*: Any building in which class III gaming activities or gaming operations occur, or in which the business records, receipts, or other funds of the gaming operation are maintained (but excluding off-site facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the gaming operation.

4. *Ordinance*: This Tribal Environmental Policy Ordinance For Gaming Facility Development.

5. *Project*: Any expansion or any significant renovation or modification of an existing Gaming Facility, or any significant excavation, construction, or development associated with the Tribe's current Gaming Facility or any proposed Tribal Gaming Facility.

6. *Record of Decision*: The record of the Tribal Council's final decision with respect to a proposed Project after review and consideration of an Environmental Evaluation and related information.

7. *Reservation:* All land within the exterior boundaries of the Hopland Reservation of the Hopland Band of Pomo Indians, and all additions thereto, under the governmental jurisdiction of the Tribe.

8. *Tribal Council:* The Tribal Council of the Tribe.

9. *Tribe:* The Hopland Band of Pomo Indians, a federally recognized Indian Tribe.

F. Environmental Review Process.

1. *Lead Agency.* The Tribe shall be the lead agency for purposes of preparing Environmental Evaluations, consultation and scoping, making determinations regarding the environmental impacts of proposed Tribal Projects, issuing findings of no significant impacts, certifying Environmental Evaluations, and selecting alternatives and mitigation measures deemed most effective to implement the policies set forth in this Ordinance, all in the manner set forth below.

2. *Determinations of Off-Reservation Environmental Impact of Projects:* The procedure for Tribal review of the potential off-Reservation environmental impacts of Projects shall be as follows, in the following order to the extent feasible:

a. *Preparation of draft Environmental Evaluation:* For every proposed Project, a draft Environmental Evaluation shall be performed and prepared, either by the Tribe itself, using its own staff and resources, or by an outside consultant engaged under contract with the Tribe, as may be determined by the Tribal Council.

b. *Notice of Project and of Preparation of Draft Environmental Evaluation:* Before or at the time of distribution of copies of the draft Environmental Evaluation, the Tribe or the engaged consultant will cause to be published in at least one local newspaper of general circulation in the vicinity of the Reservation a notice, describing the nature of the Project and the times and places where copies of the draft Environmental Evaluation will be available for public inspection. Each such notice will also invite both interested parties and governmental agencies to submit comments on the draft Environmental Evaluation to a designated Tribal official or consultant during a period specified in the notice. Known interested parties and governmental agencies may also receive this notice by mail.

c. *Consultation With Interested Parties and Agencies:* Before finalizing the Environmental Evaluation, Tribal staff or the consultant shall consult with and solicit comments from any federal, state, or local governmental agency which has jurisdiction by law or which has special expertise with respect to any potentially involved environmental impact. At a minimum, the governmental agencies which the Tribe or consultant shall consult are the State Clearinghouse of the California Office of Planning and Research and the Mendocino County Board of Supervisors. In doing so, Tribal staff or the consultant shall provide copies of the draft Environmental Evaluation to all such agencies, and make copies available for public inspection at least at the Tribe's Tribal Office on the Reservation, and also at such other locations as may befit the nature of the Project. If requested by the Mendocino County Board of Supervisors, the Tribal Council, or its designated representatives, will meet with the Mendocino County Board of Supervisors to discuss mitigation of significant adverse off-Reservation environmental impacts identified in the draft Environmental Evaluation, or any preliminary draft thereof.

d. *Public Hearing on Draft Environmental Evaluation:* Either Tribal staff or the engaged consultant shall submit to the Tribal Council the draft Environmental Evaluation, along with any written comments received from the consultation described above. The Tribal Council shall select a time and place on the Reservation for one public hearing on the Project and the draft Environmental Evaluation, and cause either its staff or the engaged consultant to have notice of the time, place, and nature of this hearing to be published in the manner described in Section F.2.b. above.

e. *Conduct of Public Hearing:* At the above hearing the Tribal Council will permit, subject to reasonable limitations, interested members of the public and affected agencies of the federal, state, or local government to present their views and comments on both the proposed Project itself and the draft Environmental Evaluation, after the Tribal staff or the engaged consultant makes a presentation as to the draft Environmental Evaluation and as to all written comments previously received.

f. *Conclusion of Public Hearing:* At or after the conclusion of the hearing, if the Tribal Council is satisfied that all relevant information is before it, in the forms of the draft Environmental Evaluation, the previously-received written comments, and the oral statements of those speaking at the public hearing, the Tribal Council may act on the proposed project as described below in Section F.2.g. If the Tribal Council believes that further studies, information or hearings are necessary in order for the Tribal Council to make a fully informed decision, it may direct the preparation of such additional studies or reports, or the conduct of further hearings, or all three.

g. *Actions Which Tribal Council May Take On Draft Environmental Evaluation:* When the Tribal Council is satisfied that it is fully informed as to all relevant facts necessary to its making of an environmentally informed decision regarding the Project, considering the Draft Environmental Evaluation, the written comments received on that draft Environmental Evaluation, the one required public hearing, as well as any further studies, information, or hearings which it may have elected to obtain or conduct, the Tribal Council will conduct its own analysis of all relevant facts so as to balance the costs and benefits of the Project, its off-Reservation environmental impacts, and feasible mitigation measures. To the extent that such actions are feasible and consistent with the Tribe's governmental interests, the Tribe will require a good faith effort to implement all mitigation measures recommended in the Environmental Evaluation in any action to proceed with a Project. Based on that analysis and balancing, the Tribal Council may then take final action on the Project in one of the following ways:

1. Issue a finding of no significant impact, and proceed with the Project.
2. Direct either Tribal staff or the engaged consultant to consolidate all comments and views of affected governmental agencies and the public on the draft Environmental Evaluation, with appropriate responses to all new information, and submit the consolidated final Environmental Evaluation to the Tribal Council, after which the Tribal Council will perform the analysis and balancing described above in Section F.2.g. and proceed accordingly.
3. Accept the draft Environmental Evaluation as the final Environmental Evaluation, and proceed with the project, but subject to a good faith effort to implement whatever conditions or further mitigation measures that the Tribal Council may deem necessary or desirable.
4. Accept the draft Environmental Evaluation, but not proceed with the Project at that time.
5. Reject the draft Environmental Evaluation, and not proceed with the Project.

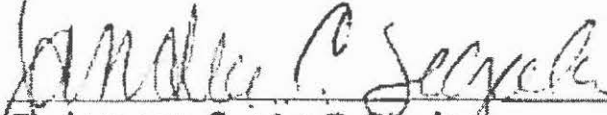
h. *Form of Tribal Council Action on Draft Environmental Evaluation:* The Tribal Council's action shall be in the form of a written resolution which, together with all supporting documentation and information, shall constitute the Tribe's Record of Decision for the Project in question.

i. *Final Decision:* The Tribal Council's Record of Decision shall be final for the Tribe, and there shall be no right of appeal.

CERTIFICATION

This is to certify that the foregoing Ordinance was adopted by the Hopland Tribal Council, at a duly noticed meeting at which a quorum was present, on August 23, 2000, by a vote of 6 in favor, 0 opposed and 0 abstaining.

Dated this 23rd of August, 2000.


Chairperson, Sandra C. Sigala


Secretary, Deborah Rivera

Hopland Band of Pomo Indians

PO Box 610, Hopland, California 95449 Phone (707) 744-1647 Fax (707) 744-1506

TITLE 11

SECTION 13

ORDINANCE NO. 9-13-00 HOPLAND GAMING COMMISSION CONFLICT-OF-INTEREST ORDINANCE [Tribal State Gaming Compact Section 8.3(a)]

WHEREAS, the Tribal-State Gaming Compact ("Compact") between the Hopland Band of Pomo Indians ("Tribe"), a federally recognized Indian tribe, and the State of California, provides at Section 8.3.(a) that "[t]he Tribe shall take all reasonable steps to ensure that members of the Tribal Gaming Commission are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Compact; shall adopt a conflict-of-interest code to that end; and shall ensure the prompt removal of any member of the Tribal Gaming Commission who is found to have acted in a corrupt or compromised manner;" and

WHEREAS, the Tribe desires and intends to comply in every respect with the terms and conditions of the Compact,

NOW, THEREFORE, the Hopland Band of Pomo Indians hereby enacts this Ordinance to prevent conflicts of interest and otherwise to maintain the integrity of the Tribal Gaming Commission and ordains as follows:

DEFINITIONS

11.1301 "Prohibited Interest Related To A Gaming Operation." A member of the Tribal Gaming Commission or an employee of the Commission who is responsible for carrying out gaming regulatory responsibilities under IGRA (a "Regulator Employee"), the Compact or the Tribal Gaming Ordinance has a Prohibited Interest Related To A Gaming Operation if he or she:

- (a) Has direct or indirect management, ownership, equity, debt or other economic interest in a tribal Gaming Operation or in any business, corporation, partnership or other entity which is in contract with the Gaming Operation, or which competes against the Gaming Operation, or which is a parent or subsidiary of such an entity; or
- (b) Is a director, officer, partner, trustee, employee, or holds any position of management or authority in the Gaming Operation; or
- (c) Has a financial interest in, or management responsibility for, any contract entered into by the Gaming Operation.

Sondra Sigala	Randolph Feliz	Brian Yopez	Deborah Rivera	Orval Elliott, Sr.	Kenneth Arnold, Sr.	James Crandell
Tribal Chair	Vice Chair	Treasurer	Secretary	Council Member	Council Member	Council Member

11.1302 "Gaming Compact" means any Tribal-State Class III Gaming Compact between the Tribe and the State of California that is in effect.

11.1303 "Gaming Operation" means a tribal business enterprise that operates and conducts any Gaming Activities on the Tribe's Indian lands.

11.1304 "Gaming Activities" means Class II or Class III gaming activities within the meaning of the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §2703.

11.1305 "Honorarium" means an honorary or free gift or a gratuitous payment.

11.1306 "IGRA" means the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, 18 U.S.C. § 1166 et seq. and 25 U.S.C. §2701 et seq.)

11.1307 "State" means the State of California.

11.1308 "Tribal Gaming Commission" means the Commission designated under tribal law to be responsible for carrying out regulatory responsibilities under IGRA, the Tribal Gaming Ordinance and the Compact.

11.1309 "Tribe" means the Hopland Band of Pomo Indians, a federally-recognized Indian tribe.

11.1310 "Tribal Gaming Ordinance" means Hopland Ordinance No. 96-08, the tribal ordinance duly authorizing the conduct of Class II and Class III Gaming Activities on the Tribe's Indian lands and approved by the Chairperson of the National Indian Gaming Commission ("NIGC") as required by IGRA, including all duly approved amendments thereto.

APPLICATION OF CONFLICT-OF-INTEREST ORDINANCE

This Conflict-of-Interest Ordinance shall be applicable to all Tribal Gaming Commission members and to employees of the Commission who are responsible for carrying out gaming regulatory responsibilities under IGRA, the Compact and the Tribal Gaming Ordinance.

FIDUCIARY DUTY

11.1311 Tribal Gaming Commission members and Regulator Employees shall discharge their duties in a manner that is free from self-dealing and personal profit, except for any salary or honorarium paid by the Tribe for the services of the members of the Tribal Gaming Commission or Regulator Employees in gaming regulation on the Tribe's Indian lands. Further, Tribal Gaming Commission members and Regulator Employees shall, in performing their duties, be free from corruption, undue influence, compromise, and conflicting interests. Tribal Gaming Commission members and Regulator Employees shall discharge their duties in good faith, with the care an ordinarily prudent person in like position would exercise under similar circumstances,

and in a manner s/he reasonably believes to be in the best interests of the Tribe, without regard for financial implications for the business of the Tribe's Gaming Operation.

NO PROHIBITED INTERESTS RELATED TO A GAMING OPERATION.

13.1312 Notwithstanding anything to the contrary in Section 13 of the Tribal Gaming Ordinance, no member of the Tribal Gaming Commission, and no Regulator Employee shall have or acquire a Prohibited Interest Related To A Gaming Operation as defined herein.

13.1313 Within thirty (30) days of being elected, appointed, or nominated to the Gaming Commission, or employed by the Tribal Gaming Commission as a Regulator Employee, or within thirty (30) days of the adoption of this Ordinance, whichever is earlier, every Commissioner and every and Regulator Employee shall sign under penalty of perjury of the laws of the Tribe and the United States, a declaration stating that he or she has read and understands this Ordinance, and has no Prohibited Interest Related To A Gaming Operation as defined herein. Each such person shall sign another such declaration on or before January 31" of each successive year of their term as a Commissioner or their employment by the Commission as a Regulator Employee.

13.1314 Every Tribal Gaming Commission member and every Regulator Employee who leaves his/her position on the Tribal Gaming Commission or his or her employment with the Commission, shall file with the Commission within thirty (30) days of leaving his/her position a statement under penalty of perjury disclosing any business relationship which such person has at the time of leaving the Commission, or expects to begin within six months of leaving his or her position with the Commission which, if that person were still a Commissioner or a Regulator Employee, would constitute a Prohibited Interest Related To A Gaming Operation.

PROHIBITION ON RECEIPT OF HONORARIA

13.1315 No Tribal Gaming Commissioner and no Regulator Employee shall accept any honorarium of significant value from any source, if entering into a contract with, or acquiring an ownership interest in, the source of the honorarium would constitute a Prohibited Interest Related To A Gaming Operation. Tribal Gaming Commissioners shall report monthly to the Tribal Council all honoraria received. Notwithstanding the foregoing, a Tribal Gaming Commission member or a Regulator Employee may accept an honorarium for participating in governmental or academic meetings or seminars, provided that any such honorarium shall be disclosed in writing to the Tribal Gaming Commission prior to its receipt, or immediately thereafter, unless the honorarium is turned over the Tribal Gaming Commission immediately upon receipt.

13.1316 This Section shall not limit or prohibit the payment of compensation for the performance of official duties as a member of the Tribal Gaming Commission or a Regulator Employee, or payments, advances, or reimbursements for travel and related lodging and subsistence expenses resulting from the performance of duties as a member or Regulator Employee of the Tribal Gaming Commission which are duly authorized by the Tribal Gaming Commission.

LOANS TO TRIBAL GAMING COMMISSION MEMBERS AND REGULATOR EMPLOYEES.

13.1317 No Tribal Gaming Commission member or Regulator Employee shall, from the date of his/her appointment or nomination or hiring through the date s/he vacates the position, receive or accept a personal or business loan from the Tribe's Gaming Operation or from the Tribe unless the loan would be available to any tribal member who qualifies pursuant to a written policy of the Tribe, or the Tribe's Gaming Operation.

13.1318 This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as a part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms generally available to tribal members.

DISQUALIFICATION OF TRIBAL GAMING COMMISSION MEMBERS

13.1319 Each Tribal Gaming Commission member and each Regulator Employee shall disqualify him/herself from making, participating in the making, or using his/her official position to influence the making of any decision of the Tribal Gaming Commission if he or she or any member of his/her immediate family or household would be materially affected by the decision or any such person has an economic interest in a Gaming Operation which it is reasonably foreseeable may be materially affected by the decision. If the disqualification of one or more members hereunder would deprive the Tribal Gaming Commission of a quorum for the conduct of its business, the Tribal Council shall designate one or more members pro tempore to participate in such decisions; members appointed pro tempore shall be subject to the same qualifications, standards of conduct and disclosure obligations as regular members.

13.1320 No Tribal Gaming Commission member or Regulator Employee shall make, participate in making, or use his/her official position to influence any Tribal Gaming Commission decision directly relating to any contract if he or she or any member of his/her immediate family or household has an economic interest in that contract or if he or she knows or has reason to know that any party to the contract is a person with whom he or she, or any member of his/her immediate family, has, within twelve (12) months prior to the time when official action is to be taken:

(1) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(2) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$ 1,000) or more.

SUSPENSION AND/OR REMOVAL OF TRIBAL GAMING COMMISSION MEMBERS

13.1321 Notwithstanding any other provision of tribal law, if the Tribal Council finds that a reasonable person would conclude, based upon reliable information in the Tribal Council's possession, that a member of the Tribal Gaming Commission has acted in a corrupt or compromised manner under this Ordinance, or has failed to disqualify him/herself from participating in a decision about which the member has a conflict of interest, or has filed a false declaration with the Commission regarding Prohibited Interests Related To A Gaming Operation,

or has a Prohibited Interest Related To A Gaming Operation, the Tribal Council immediately shall suspend the member from his/her position on the Tribal Gaming Commission pending the outcome of an investigation to verify the accuracy and significance of such information.

13.1322 The Tribal Council or its appointed representative shall make an investigation into the charges and prepare written findings of fact which shall be presented to the General Community Council within thirty (30) days of their completion.

13.1323 Upon its receipt of the written findings of fact, if it finds that there is sufficient cause to consider removal of the Commissioner from office, the Tribal Council shall proceed in accordance with the Tribal Gaming Ordinance. Acting in a corrupt or compromised manner under this Ordinance, or failing to disqualify him/herself from participating in a decision about which the Commissioner has a conflict of interest shall be considered good cause for removal pursuant to the Tribal Gaming Ordinance.

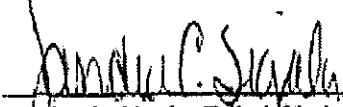
NULLIFICATION OF DECISIONS MADE BY DISQUALIFIED MEMBERS.

If a Commissioner participates in making a decision when the member should have disqualified him/herself because of a conflict of interest, that decision shall be null and void from the time it was made, and the Tribal Gaming Commission shall reconsider the decision without the participation of the disqualified member.


CERTIFICATION

This is to certify that the foregoing Ordinance was adopted by the Hopland Tribal Council, at a duly noticed meeting at which a quorum was present, on September 13, 2000, by a vote of 6 in favor, 0 opposed and 0 abstaining.

ATTEST:


Sandra C. Sigala, Tribal Chairperson

9-13-00
Date


Deborah Rivera, Tribal Secretary

9-13-00
Date

RECEIVED

FEB 11 2002

HOPLAND
GAMING COMMISSION

ORDINANCE NO. 01-03-022

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE
HOPLAND BAND OF POMO INDIANS REPEALING
ALL PRIOR ENACTED LIQUOR ORDINANCES AND
ADOPTING A NEW ORDINANCE ENTITLED
"LIQUOR REGULATION AND LICENSING
ORDINANCE."

The Tribal Council ("Council") of the Hopland Band of Pomo Indians ("Tribe") does hereby ordain as follows:

Section 1. Declaration of Findings. The Council hereby finds as follows:

1. Under Article IX of the Constitution of the Tribe, the Council has the power to administer Reservation assets and manage all economic affairs of the Tribe, to promote the peace, safety, health, and general welfare of the members of the Tribe, and to promulgate and adopt ordinances as needed by the Tribe.
2. The introduction, possession and sale of alcoholic beverages on the Hopland Indian Reservation ("Reservation") is a matter of special concern to the Tribe.
3. Federal law leaves to federally recognized Indian tribes the decision regarding when and to what extent alcoholic beverage transactions shall be permitted on Indian reservations.
4. Present day circumstances make a complete ban on alcoholic beverages within the Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over alcoholic beverage distribution.
5. The enactment of a tribal ordinance governing alcoholic beverage sales on the Reservation and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government to control the distribution, sale and possession of liquor on the Reservation, and at the same time will provide an important and urgently needed source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.
6. In order to help ensure the certification of this Ordinance by the Secretary of the Interior, the Tribe's originally enacted Liquor Ordinance, as subsequently amended, needs to be repealed and this Ordinance enacted in its place.

Section 2. Declaration of Policy. The Council hereby declares that the policy of

the Tribe is to eliminate the evils of unlicensed and unlawful manufacture, distribution, and sale of alcoholic beverages on the Reservation and to promote temperance in the use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the Reservation.

Section 3. Repeal of All Previously Enacted Liquor Ordinances and Adoption of a new Liquor Licensing Ordinance. All Ordinances previously enacted by the Hopland Tribal Council pertaining to the manufacture, distribution, sale or possession of alcoholic beverages are hereby repealed and a new ordinance entitled "Liquor Regulation and Licensing Ordinance" is hereby adopted which shall provide as follows:

**LIQUOR REGULATION AND LICENSING ORDINANCE
OF THE HOPLAND BAND OF POMO INDIANS**

Chapters:

- 01 Introduction
- 02 General Provisions
- 04 Definitions
- 06 Prohibition of the Unlicensed Sale of Liquor
- 08 Application for License
- 10 Issuance, Renewal, and Transfer of Licenses
- 12 Revocation of Licenses
- 14 Enforcement

Chapter 01

Sections:

- 01.010 Title.
- 01.020 Authority.
- 01.030 Purpose.
- 01.040 Effective Date.

Section 01.010 Title. This Ordinance shall be known as the "Liquor Regulation and Licensing Ordinance of the Hopland Band of Pomo Indians."

Section 01.020 Authority. This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub L. 83-277, 67 Stat. 588, 18 U.S.C. §1161), and Article IX of the Constitution of the Hopland Band of Pomo Indians.

Section 01.030 Purpose. The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Hopland Indian Reservation. The enactment of a tribal ordinance governing liquor possession and sale on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and, at the same time, will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Section 01.040 Effective Date. This Ordinance shall be effective on the date that it is published in the Federal Register by the Secretary of the Interior as required by applicable federal law.

Chapter 02

GENERAL PROVISIONS

Sections:

02.010 Short title.

02.020 Purpose.

02.030 Sovereign immunity preserved.

02.040 Applicability within the Reservation.

02.050 Possession of alcoholic beverages.

02.060 Interpretation and findings.

02.070 Conflicting provisions.

02.080 Application of 18 U.S.C. §1161.

02.010 Short title. This ordinance shall be known and cited as the "Hopland Liquor Regulation and Licensing Ordinance."

02.020 Purpose. The purpose of this Ordinance is to prohibit the importation, manufacture, distribution and sale of alcoholic beverages on the Hopland Indian Reservation except pursuant to a license issued by the Hopland Tribal Council under the provisions of this Ordinance.

02.030 Sovereign immunity preserved. Nothing in this Ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Hopland Band of Pomo Indians. No officer or employee of the Hopland Band of Pomo Indians is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this Ordinance unless such officer or employee has an express and explicit written authorization from the Hopland Tribal Council.

02.040 Applicability within the Reservation. This Ordinance shall apply to all persons within the exterior boundaries of the Hopland Indian Reservation consistent with the applicable federal Indian liquor laws.

02.050 Possession of alcoholic beverages. Nothing in this Ordinance shall be interpreted as prohibiting the possession, transportation or consumption of alcoholic beverages within the boundaries of the Hopland Indian Reservation. Possession, transportation and/or consumption of alcoholic beverages within the exterior boundaries of

the Reservation in conformity with the provisions of Federal law relating to the possession, transportation, or consumption of alcoholic beverages is expressly permitted under this Ordinance.

02.060 Interpretation and findings. The Hopland Tribal Council in the first instance may interpret any ambiguities contained in this Ordinance.

02.070 Conflicting provisions. Whenever any conflict occurs between the provisions of this Ordinance or the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

02.080 Application of 18 U.S.C. §1161. The importation, manufacture, distribution and sale of alcoholic beverages on the Hopland Indian Reservation shall be in conformity with this Ordinance and in conformity with the laws of the State of California as that phrase or term is used in 18 U.S.C. §1161.

Chapter 04

DEFINITIONS

Sections:

04.010 Interpretation.

04.020 Alcohol.

04.030 Alcoholic beverage.

04.040 Beer.

04.050 Distilled spirits.

04.060 Importer.

04.070 Liquor license.

04.080 Manufacturer.

04.090 Person.

04.100 Reservation.

04.110 Sale.

04.120 Seller.

04.130 Tribal Council.

04.140 Tribe.

04.150 Wine.

04.010 Interpretation. In construing the provisions of this Ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

04.020 Alcohol. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

04.030 Alcoholic beverage. "Alcoholic beverage" includes all alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. It shall be interchangeable in this Ordinance with the term "liquor."

04.040 Beer. "Beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer, and also includes sake, otherwise known as Japanese rice wine.

04.050 Distilled spirits. "Distilled spirits" means any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

04.060 Importer. "Importer" means any person who introduces alcohol or alcoholic beverages into the Hopland Indian Reservation from outside the exterior boundaries of the Reservation for the purpose of sale or distribution within the Reservation, provided however, the term importer as used herein shall not include a wholesaler licensed by any state or tribal government selling alcoholic beverages to a seller licensed by a state or tribal government to sell at retail.

04.070 Liquor license. "Liquor license" means a license issued by the Hopland Tribal Council under the provisions of this Ordinance authorizing the sale, manufacture, or importation of alcoholic beverages on or within the Reservation consistent with federal law.

04.080 Manufacturer. "Manufacturer" means any person engaged in the manufacture of alcohol or alcoholic beverages.

04.090 Person. "Person" means any individual, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group, whether recognized by the United States Government or otherwise. The term shall also include the businesses of the Tribe. It shall be interchangeable in this Ordinance with the term "seller" or "licensee."

04.100 Reservation. "Reservation" means all lands within the exterior boundaries

of the Hopland Indian Reservation and such other lands as may hereafter be acquired by the Tribe, whether within or without said boundaries, under any grant, transfer, purchase, gift, adjudication, executive order, Act of Congress, or other means of acquisition.

04.110 Sale. "Sale" means the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. It includes conditional sales contracts, leases with options to purchase, and any other contract under which possession of property is given to the purchaser, buyer, or consumer but title is retained by the vendor, retailer, manufacturer, or wholesaler, as security for the payment of the purchase price. Specifically, it shall include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages pursuant to an order placed for the purchase of such beverages, or soliciting or receiving such beverages.

04.120 Seller. "Seller" means any person who, while within the exterior boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

04.130 Tribal Council. "Tribal Council" or "Council" means the Hopland Tribal Council.

04.140 Tribe. "Tribe" means the Hopland Band of Pomo Indians.

04.150 Wine. "Wine" means the product obtained from the normal alcoholic fermentation of the juice of the grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or

spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made, and other rectified wine products.

Chapter 06

PROHIBITION OF THE UNLICENSED SALE OF LIQUOR

Sections:

06.010 Prohibition of the unlicensed sale of liquor.

06.020 Authorization to sell liquor.

06.030 Types of licenses.

06.010 Prohibition of the unlicensed sale of liquor. No person shall import for sale, manufacture, distribute or sell any alcoholic beverages within the Reservation without first applying for and obtaining a written license from the Council issued in accordance with the provisions of this Ordinance.

06.020 Authorization to sell liquor. Any person applying for and obtaining a liquor license under the provisions of this Ordinance shall have the right to engage only in those liquor transactions expressly authorized by such license and only at those specific places or areas designated in said license.

06.030 Types of licenses. The Council shall have the authority to issue the following types of liquor licenses within the Reservation:

A. "Retail on-sale general license" means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license.

B. "Retail on-sale beer and wine license" means a license authorizing the

applicant to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license.

C. "Retail off-sale general license" means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

D. "Retail off-sale beer and wine license" means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

E. "Manufacturer's license" means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the Reservation.

Chapter 08

APPLICATION FOR LICENSE

Sections:

08.010 Application form and content.

08.020 Fee accompanying application.

08.030 Investigation; denial of application.

08.010 Application form and content. An application for a license shall be made to the Council and shall contain the following information:

A. The name and address of the applicant. In the case of a corporation, the names and addresses of all of the principal officers, directors and stockholders of the corporation. In the case of a partnership, the name and address of each partner.

B. The specific area, location and/or premises for which the license is applied

for.

C. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).

D. Whether the applicant has a state liquor license.

E. A statement by the applicant to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this Ordinance or any of the provisions of the California Alcoholic Beverage Control Act.

F. The signature and fingerprint of the applicant. In the case of a partnership, the signature and fingerprint of each partner. In the case of a corporation, the signature and fingerprint of each of the officers of the corporation under the seal of the corporation.

G. The application shall be verified under oath, notarized and accompanied by the license fee required by this Ordinance.

08.020 Fee accompanying application. The Council shall by resolution establish a fee schedule for the issuance, renewal and transfer of the following types of licenses:

- A. Retail on-sale general license;
- B. Retail on-sale beer and wine license;
- C. Retail off-sale general license;
- D. Retail off-sale beer and wine liquor; and
- E. Manufacturer's license.

08.030 Investigation: denial of application. Upon receipt of an application for the issuance, transfer or renewal of a license and the application fee required herein, the Council

shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify for a license and whether the provisions of this Ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The Council shall deny an application for issuance, renewal or transfer of a license if either the applicant or the premises for which a license is applied for does not qualify for a license under this Ordinance or if the applicant has misrepresented any facts in the application or given any false information to the Council in order to obtain a license.

The Council further may deny any application for issuance, renewal or transfer of a license if the Council cannot make the findings required by Section 10.20 of this Ordinance or the Council finds that the issuance of such a license would tend to create a law enforcement problem, or if issuance of said license would be a detriment to the health, safety and welfare of the Tribe or its members.

Chapter 10

ISSUANCE, RENEWAL AND TRANSFER OF LICENSES

Sections:

10.010 Public hearing.

10.020 Council action on application.

10.030 Multiple locations.

10.040 Term of License / Temporary License.

10.050 Transfer of licenses.

10.010 Public hearing. Upon receipt of an application for issuance, renewal or

transfer of a license, and the payment of all fees required under this Ordinance, the Secretary of the Council shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least ten (10) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the Reservation. The notice published in the newspaper shall include the name of the applicant and the type of license applied for and a general description of the area where liquor will be sold. At the hearing, the Council shall hear from any person who wishes to speak for or against the application. The Council shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

10.020 Council action on application. Within thirty (30) days of the conclusion of the public hearing, the Council shall act on the matter. The Council shall have the authority to deny, approve, or approve with conditions the application. Before approving the application, the Council shall find: (1) that the site for the proposed premises has adequate parking, lighting, security and ingress and egress so as not to adversely affect adjoining properties or businesses, and (2) that the sale of alcoholic beverages at the proposed premises is consistent with the Tribe's Zoning Ordinance.

Upon approval of an application, the Council shall issue a license to the applicant in a form to be approved from time to time by the Council by resolution. All businesses shall post their tribal liquor licenses issued under this Ordinance in a conspicuous place upon the premises where alcoholic beverages are sold, manufactured or offered for sale.

10.030 Multiple locations. Each license shall be issued to a specific person. Separate

licenses shall be issued for each of the premises of any business establishment having more than one location.

10.040 Term of license/Temporary licenses. All licenses issued by the Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the Council may issue special licenses for the sale of alcoholic beverages on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee to be established by the Council by resolution.

10.050 Transfer of licenses. Each license issued or renewed under this Ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Council. The Council shall have the authority to approve, deny, or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under Section 08.010 of this Ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

Chapter 12

REVOCATION OF LICENSES

Sections:

12.010 Revocation of licenses.

12.020 Accusations.

12.030 Hearing.

12.010 Revocation of licenses. The Council shall revoke a license upon any of the

following grounds:

- A. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.
- B. The violation of any condition imposed by the Council on the issuance, transfer or renewal of a license.
- C. A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors.
- D. The violation of any tribal ordinance.
- E. The failure to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any immediately adjacent area leased, assigned or rented by the licensee within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

12.020 Accusations. The Council, on its own motion through the adoption of an appropriate resolution meeting the requirements of this section, or any person may initiate revocation proceedings by filing an accusation with the Secretary of the Council. The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this Ordinance which would authorize the Council to revoke the license or licenses of the licensee against whom the accusation is made. Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the Council. Thirty (30) days prior to the date set for the hearing, the Secretary shall

mail a copy of the accusation along with a notice of the day and time of the hearing before the Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee ten (10) days prior to the hearing date.

12.030 Hearing. Any hearing held on any accusation shall be held before a majority of the Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Council. The Council shall render its decision within sixty (60) days after the date of the hearing. The decision of the Council shall be final and non-appealable.

Chapter 14

ENFORCEMENT

Sections:

14.010. Right to inspect.

14.020 General penalties.

14.030 Initiation of action.

14.010 Right to Inspect. Any premises within the area under the jurisdiction of this Ordinance on which liquor is sold or distributed shall be open for inspection by representatives of the Council at all reasonable times during business hours for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

14.020 General penalties. Any person adjudged to be in violation of this Ordinance

shall be subject to a civil penalty of not more than Five Hundred Dollars (\$500.00) for each such violation. The Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars (\$500.00) limitation set forth above.

The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate Chapter or provision of this Ordinance or by a separate ordinance enacted by the Hopland Tribal Council.

14.020 Initiation of action. Any violation of this Ordinance shall constitute a public nuisance. The Council may initiate and maintain an action in tribal court, or, if the tribal court does not have jurisdiction over the action, in the United States District Court for the Northern District of California, to abate and permanently enjoin any nuisance declared under this Ordinance. Any action taken under this section shall be in addition to any other penalties provided for this Ordinance.

Section 4. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and affect. To this end the provisions of this Ordinance are severable.

Section 5. Effective Date. This Ordinance shall be effective on such date as the Secretary of the Interior certifies this Ordinance and publishes the same in the Federal

Register.

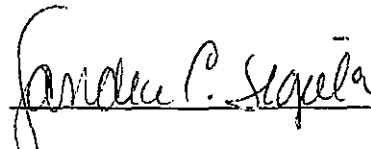
The foregoing ordinance was adopted on the 2nd day of March, 2001, at a special meeting of the Hopland Tribal Council, by the following vote:

AYES: 5

NOES: 0

ABSENT: 1

ABSTAIN: 0



Sandra Sigala, Chairperson

ATTESTED:



Deborah Riveria, Tribal Secretary

Hopland Band of Pomo Indians

TITLE 11

SECTION 7

ORDINANCE NO. 00-08-23

COMPREHENSIVE CLASS III TRIBAL GAMING FACILITY STANDARDS ORDINANCE

BUILDING SAFETY

WATER QUALITY AND DRINKING WATER SAFETY

FOOD AND BEVERAGE HANDLING

WORKPLACE AND OCCUPATIONAL SAFETY AND HEALTH STANDARDS

ADOPTION OF CERTAIN FEDERAL STANDARDS

NON-DISCRIMINATION AND INDIAN PREFERENCE IN EMPLOYMENT

EMPLOYEES' RIGHTS REGARDING WORK RELATED INJURIES

WITHHOLDING OF TAXES FROM EMPLOYEES WHO ARE NOT TRIBAL MEMBERS

WHEREAS, The Hopland Band of Pomo Indians ("the Tribe") is a party to a Tribal-State Class III gaming compact with the State of California ("the Compact") which became effective on May 16, 2000;

WHEREAS, The Compact requires that the Tribe adopt, implement and enforce ordinances, policies and/or procedures setting minimum standards for building safety, water quality, drinking water, food and beverage handling, workplace and occupational safety and health for, in and on the premises of gaming facilities authorized and operated pursuant to the Compact;

WHEREAS, Regarding certain subjects, the Compact provides that if the Tribe does not adopt its own or an applicable federal statute or regulation in lieu of a tribal standard, the state's statute or regulation will become the applicable standard by default;

WHEREAS, The Tribe desires and intends to fulfill its obligations under the Compact by adopting its own ordinances and standards for its gaming facilities, rather than allowing State standards to apply to those facilities by default;

WHEREAS, The Compact recognizes the right of the Tribe to give preference in hiring, promotion and retention to Indians, and the Tribe has a policy of extending such preference;

WHEREAS, The Compact allows the Tribe to choose whether to participate in the State of California's statutory workers' compensation system or to create and maintain its own system providing benefits and procedures comparable to those mandated for comparable employees under State Law;

NOW, THEREFORE, BE IT RESOLVED and ordained as follows;

Definition of "Gaming Facility:" As used in this Comprehensive Class III Tribal Gaming Facility Standards Ordinance, "Gaming Facility" or "Facility" means any building in which Class III gaming activities or gaming operations occur pursuant to the Compact, or in which the business records, receipts, or other funds of the Compacted Class III gaming operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.

1. Comprehensive Gaming Facility Building Code. [Compact Sections 6.4.2 and 10.2(c)]

A. The Tribe hereby adopts as the Hopland Comprehensive Gaming Facility Building Code, and makes applicable to all Gaming Facilities constructed after the effective date of the Compact, and to all expansions or modifications to any Gaming Facility which was in operation as of the effective date of the Compact, which expansions or modifications occur after the effective date of the Compact: 1) the Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. § 12101 et seq.; and 2) the Uniform Building Code; 3) the Uniform Mechanical Code; 4) the National Electrical Code; 5) the Uniform Fire Code; and 6) the Uniform Plumbing Code, which are now in effect and as they may be amended from time to time by the International Conference of Building Officials. The Tribe delegates to the Hopland Tribal Gaming Commission (the "Commission") all necessary authority to adopt regulations consistent with the Hopland Comprehensive Gaming Facility Building Code, and to enforce said Act, Code and regulations in connection with the construction, operation and maintenance of Gaming Facilities of the Tribe and constructed after the effective date of the Compact, and all expansions or modifications to a Gaming Facility in operation as of the effective date of the Compact. For those purposes, and in connection with this provision, the Commission shall be deemed to be the Building Official as defined in the Uniform Building Code.

B. Each Gaming Facility shall be issued a certificate of occupancy by the Commission prior to occupancy if it was not used for any Gaming Activities under IGRA prior to the effective date of the Compact, or, if it was so used, within one year thereafter. The issuance of this certificate shall be reviewed for continuing compliance every two years thereafter. Inspections by qualified building and safety experts shall be conducted under the direction of the Commission as the basis for issuing any certificate hereunder. The Commission shall determine and certify that, as to new construction or new use for gaming, the Facility meets the Hopland Comprehensive Gaming Facility Building Code, and, as to facilities or portions of facilities that were used for the Tribe's Gaming Activities prior to the effective date of the Compact, that the facility or said portions thereof do not endanger the health or safety of occupants or the integrity of the gaming operation. The Tribe shall not offer Class III gaming in a Facility that is constructed or maintained in a manner that endangers the health or safety of occupants or the integrity of the gaming operation.

2. Hopland Gaming Facility Food and Beverage Safety Ordinance. [Compact Section 10.2(a)]

The Tribe hereby adopts as the Hopland Gaming Facility Food and Beverage Safety Ordinance, and makes applicable to all Gaming, the public health standards of the State of California for food and beverage handling, and delegates to the Commission all necessary authority to adopt regulations consistent with this Ordinance, and to enforce this Ordinance and the regulations in connection with the operation and maintenance of Gaming Facilities operated under the Compact. The Commission may take all steps necessary to cause inspections to be routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service. The Commission shall maintain accurate records of all inspections for the purpose of documenting Compact compliance.

3. Hopland Gaming Facility Water Quality and Safe Drinking Water Ordinance. [Compact Section 10.2(b)]

The Tribe hereby adopts as the Hopland Gaming Facility Safe Drinking Water Ordinance, and makes applicable to all Gaming Facilities, the federal water quality and safe drinking water standards applicable in California, and delegates to the Commission all necessary authority to adopt regulations consistent with this Ordinance, and to enforce this Ordinance and the regulations in connection with the operation and maintenance of all Gaming Facilities. The Commission may take all steps necessary to cause inspections and testing to be made by an agency of the United States pursuant to, or by the Tribe under express authorization of, federal law, to ensure compliance with federal water quality and safe drinking water standards. The Commission shall maintain accurate records of all inspections for the purpose of documenting Compact compliance.

4. Hopland Gaming Facility Occupational Health and Safety Ordinance. [Compact Section 10.2(e)]

The Tribe hereby adopts as the Hopland Gaming Facility Occupational Health and Safety Ordinance, and makes applicable to all Gaming Facilities, workplace and occupational health and safety standards no less stringent than those established under federal law, and delegates to the Commission all necessary authority to adopt regulations consistent with this Ordinance and to enforce this Ordinance and the regulations in connection with the operation and maintenance of Gaming Facilities. The Commission may take all steps necessary to cause inspections to be regularly made by an agency of the United States government to ensure compliance with federal workplace and occupational health and safety standards. The Commission shall maintain accurate records of all inspections for the purpose of documenting Compact compliance.

5. Hopland Omnibus Health and Safety Ordinance.[Compact Section 10.2(f)]

The Tribe hereby adopts as the Hopland Gaming Facility Omnibus Health and Safety Ordinance all relevant federal health and safety standards for which there is no express Hopland

Tribal standard and for which there is a comparable State standard that, in the absence of a Tribal standard, would apply by default to the Tribe's Gaming Facilities, The Tribe delegates to the Commission the authority to adopt necessary regulations consistent with the Compact, and with tribal and federal law and to enforce this Ordinance and the regulations in connection with the operation and maintenance of all Gaming Facilities.

6. Hopland Gaming Facility Employment Rights Ordinance. [Compact Section 10.2(g)]

The Tribe hereby adopts, as the Hopland Gaming Facility Employment Rights Ordinance, standards to govern the employment of persons by all Gaming Facilities which are no less stringent than federal and state laws forbidding employers generally from discriminating on the basis of race, color, religion, national origin, gender, sexual orientation, age, or disability; provided that notwithstanding the foregoing, the Tribe hereby confirms that all Indian preference laws and policies of the Tribe apply to all Gaming Facilities.

7. Hopland Gaming Facility Workers' Compensation Ordinance. [Compact Section 10.3]

The previous voluntary election by the Tribe to require Sho-Ka-Wah Casino, and all other Hopland tribal government gaming businesses which are subject to the Compact, to participate in the California Workers' Compensation system for employee work-related injuries is hereby reaffirmed and ratified. The Tribe reserves the right to withdraw at any time from that system without prejudice to the coverage of its employees, upon creation by the Tribe of, or its election to enter into, a system that provides redress for employee work-related injuries through requiring insurance or self-insurance, which system shall include a scope of coverage, availability of an independent medical examination, right to notice, hearings before an independent tribunal, a means of enforcement of decisions of that tribunal, and benefits comparable to those mandated for comparable employees under state law. All contracts between the Tribe's Gaming Facilities and independent contractors shall require that the contractors comply with all state workers' compensation laws and obligations. The Tribe delegates to the Commission the authority to adopt regulations consistent with applicable tribal, state, and federal law, and to enforce this Ordinance and the regulations in connection with the operation of all Gaming Facilities.

8. Cashing Certain Checks. [Compact Section 10.2(h)]

The Tribe hereby adopts as tribal law, and its Gaming Facilities shall comply with, standards that are no less stringent than state laws, if any, prohibiting a gaming enterprises from cashing any check drawn against a federal, state, county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments, or public assistance payments. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision in connection with the operation and maintenance of all Gaming Facilities.

9. Prohibited Promotional Incentives. [Compact Section 10.2 (i)]

The Tribe hereby adopts as tribal law, and its Gaming Facilities shall comply with, standards that are no less stringent than state laws, if any, prohibiting a gaming enterprise from providing, allowing, contracting to provide, or arranging to provide alcoholic beverages, or food or lodging for no charge or at reduced prices at a gambling establishment or lodging facility as an incentive or enticement. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision and the regulations in connection with the operation and maintenance of all Gaming Facilities.

10. Extensions of Credit. [Compact Section 10.2(j)]

The Tribe hereby adopts as tribal law, and its Gaming Facilities shall comply with, standards that are no less stringent than state laws, if any, prohibiting extensions of credit to patrons of gaming businesses. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision and the regulations in connection with the operation and maintenance of all Gaming Facilities.

11. Bank Secrecy Act. [Compact Section 10.2(k)]

All Tribal Gaming Facilities shall comply with the provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. Sec. 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, to the extent that such provisions and reporting requirements are applicable to casinos. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision and the regulations in connection with the operation and maintenance of all Gaming Facilities.

12. Withholding of Taxes From Employees Who Are Not Tribal Members
[Compact Section 10.3(c)]

As a matter of comity, with respect to persons employed at the Gaming Facility, other than members of the Tribe, the Tribal Gaming Operation shall withhold all taxes due to the State as provided in the California Unemployment Insurance Code and the Revenue and Taxation Code, and shall forward such amounts as provided in said Codes to the State.

13. No Submission to Jurisdiction, Waiver of Sovereign Immunity or Impairment of Sovereignty.

Nothing in this Comprehensive Class III Tribal Gaming Facility Standards Ordinance shall be deemed to submit the Tribe to the jurisdiction of the State of California or any other governmental entity, or to waive the sovereign immunity of the Tribe or otherwise impair its sovereignty.

14. Ordinance Applicable to Gaming Facilities Only.

The provisions of this Ordinance shall apply only to Gaming Facilities as defined herein.

15. Effective Immediately.

This Comprehensive Class III Tribal Gaming Facility Standards Ordinance shall be effective immediately.

CERTIFICATION

This is to certify that the foregoing Comprehensive Class III Tribal Gaming Facility Standards Ordinance was adopted by the Hopland Tribal Council, at a duly noticed meeting at which a quorum was present, on August 23, 2000, by a vote of 6 in favor, 0 opposed and 0 abstaining.

ATTEST:

ATTEST:

Sandra C. Sigala
Sandra C. Sigala, Tribal Chairperson

Deborah Rivera
Deborah Rivera, Tribal Secretary

8-23-00
Date

8-23-00
Date



Hoplend Band of Pomo Indians

PO Box 610, Hopland, California 95449 Phone (707) 744-1647 Fax (707) 744-9101

ORDINANCE NO. 00-08-23

COMPREHENSIVE CLASS III TRIBAL GAMING FACILITY STANDARDS ORDINANCE

BUILDING SAFETY WATER QUALITY AND DRINKING WATER SAFETY FOOD AND BEVERAGE HANDLING WORKPLACE AND OCCUPATIONAL SAFETY AND HEALTH STANDARDS ADOPTION OF CERTAIN FEDERAL STANDARDS NON-DISCRIMINATION AND INDIAN PREFERENCE IN EMPLOYMENT EMPLOYEES' RIGHTS REGARDING WORK-RELATED INJURIES WITHHOLDING OF TAXES FROM EMPLOYEES WHO ARE NOT TRIBAL MEMBERS

WHEREAS, The Hopland Band of Pomo Indians ("the Tribe") is a party to a Tribal-State Class III gaming compact with the State of California ("the Compact") which became effective on May 16, 2000;

WHEREAS, The Compact requires that the Tribe adopt, implement and enforce ordinances, policies and/or procedures setting minimum standards for building safety, water quality, drinking water, food and beverage handling, workplace and occupational safety and health for, in and on the premises of gaming facilities authorized and operated pursuant to the Compact;

WHEREAS, Regarding certain subjects, the Compact provides that if the Tribe does not adopt its own or an applicable federal statute or regulation in lieu of a tribal standard, the state's statute or regulation will become the applicable standard by default;

WHEREAS, The Tribe desires and intends to fulfill its obligations under the Compact by adopting its own ordinances and standards for its gaming facilities, rather than allowing State standards to apply to those facilities by default;

WHEREAS, The Compact recognizes the right of the Tribe to give preference in hiring, promotion and retention to Indians, and the Tribe has a policy of extending such preference;

WHEREAS, The Compact allows the Tribe to choose whether to participate in the State of California's statutory workers' compensation system or to create and maintain its own system providing benefits and procedures comparable to those mandated for comparable employees under State law;

Sandra Sigala	Randolph Felix	Brian Yopez	Deborah Rivera	Orval Elliott Sr.	James Crandell	Kenneth Arnold
Tribal Chair	Vice-Chair	Treasurer	Secretary	Council Member	Council Member	Council Member

NOW, THEREFORE, BE IT RESOLVED and ordained as follows:

Definition of "Gaming Facility:" As used in this Comprehensive Class III Tribal Gaming Facility Standards Ordinance, "Gaming Facility" or "Facility" means any building in which Class III gaming activities or gaming operations occur pursuant to the Compact, or in which the business records, receipts, or other funds of the Compacted Class III gaming operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.

1. Comprehensive Gaming Facility Building Code. [Compact Sections 6.4.2 and 10.2(c)]

A. The Tribe hereby adopts as the Hopland Comprehensive Gaming Facility Building Code, and makes applicable to all Gaming Facilities constructed after the effective date of the Compact, and to all expansions or modifications to any Gaming Facility which was in operation as of the effective date of the Compact, which expansions or modifications occur after the effective date of the Compact: 1) the Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. § 12101 et seq.; and 2) the Uniform Building Code; 3) the Uniform Mechanical Code; 4) the National Electrical Code; 5) the Uniform Fire Code; and 6) the Uniform Plumbing Code, which are now in effect and as they may be amended from time to time by the International Conference of Building Officials. The Tribe delegates to the Hopland Tribal Gaming Commission (the "Commission") all necessary authority to adopt regulations consistent with the Hopland Comprehensive Gaming Facility Building Code, and to enforce said Act, Code and regulations in connection with the construction, operation and maintenance of Gaming Facilities of the Tribe and constructed after the effective date of the Compact, and all expansions or modifications to a Gaming Facility in operation as of the effective date of the Compact. For those purposes, and in connection with this provision, the Commission shall be deemed to be the Building Official as defined in the Uniform Building Code.

B. Each Gaming Facility shall be issued a certificate of occupancy by the Commission prior to occupancy if it was not used for any Gaming Activities under IGRA prior to the effective date of the Compact, or, if it was so used, within one year thereafter. The issuance of this certificate shall be reviewed for continuing compliance every two years thereafter. Inspections by qualified building and safety experts shall be conducted under the direction of the Commission as the basis for issuing any certificate hereunder. The Commission shall determine and certify that, as to new construction or new use for gaming, the Facility meets the Hopland Comprehensive Gaming Facility Building Code, and, as to facilities or portions of facilities that were used for the Tribe's Gaming Activities prior to the effective date of the Compact, that the facility or said portions thereof do not endanger the health or safety of occupants or the integrity of the gaming operation. The Tribe shall not offer Class III gaming in a Facility that is constructed or maintained in a manner that endangers the health or safety of occupants or the integrity of the gaming operation.

2. Hopland Gaming Facility Food and Beverage Safety Ordinance. [Compact Section 10.2(a)]

The Tribe hereby adopts as the Hopland Gaming Facility Food and Beverage Safety Ordinance, and makes applicable to all Gaming, the public health standards of the State of California for food and beverage handling, and delegates to the Commission all necessary authority to adopt regulations consistent with this Ordinance, and to enforce this Ordinance and the regulations in connection with the operation and maintenance of Gaming Facilities operated under the Compact. The Commission may take all steps necessary to cause inspections to be routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service. The Commission shall maintain accurate records of all inspections for the purpose of documenting Compact compliance.

3. Hopland Gaming Facility Water Quality and Safe Drinking Water Ordinance. [Compact Section 10.2(b)]

The Tribe hereby adopts as the Hopland Gaming Facility Safe Drinking Water Ordinance, and makes applicable to all Gaming Facilities, the federal water quality and safe drinking water standards applicable in California, and delegates to the Commission all necessary authority to adopt regulations consistent with this Ordinance, and to enforce this Ordinance and the regulations in connection with the operation and maintenance of all Gaming Facilities. The Commission may take all steps necessary to cause inspections and testing to be made by an agency of the United States pursuant to, or by the Tribe under express authorization of, federal law, to ensure compliance with federal water quality and safe drinking water standards. The Commission shall maintain accurate records of all inspections for the purpose of documenting Compact compliance.

4. Hopland Gaming Facility Occupational Health and Safety Ordinance. [Compact Section 10.2(e)]

The Tribe hereby adopts as the Hopland Gaming Facility Occupational Health and Safety Ordinance, and makes applicable to all Gaming Facilities, workplace and occupational health and safety standards no less stringent than those established under federal law, and delegates to the Commission all necessary authority to adopt regulations consistent with this Ordinance and to enforce this Ordinance and the regulations in connection with the operation and maintenance of Gaming Facilities. The Commission may take all steps necessary to cause inspections to be regularly made by an agency of the United States government to ensure compliance with federal workplace and occupational health and safety standards. The Commission shall maintain accurate records of all inspections for the purpose of documenting Compact compliance.

5. Hopland Omnibus Health and Safety Ordinance. [Compact Section 10.2(f)]

The Tribe hereby adopts as the Hopland Gaming Facility Omnibus Health and Safety Ordinance all relevant federal health and safety standards for which there is no express Hopland

Tribal standard and for which there is a comparable State standard that, in the absence of a Tribal standard, would apply by default to the Tribe's Gaming Facilities. The Tribe delegates to the Commission the authority to adopt necessary regulations consistent with the Compact, and with tribal and federal law and to enforce this Ordinance and the regulations in connection with the operation and maintenance of all Gaming Facilities.

6. Hopland Gaming Facility Employment Rights Ordinance. [Compact Section 10.2(g)]

The Tribe hereby adopts, as the Hopland Gaming Facility Employment Rights Ordinance, standards to govern the employment of persons by all Gaming Facilities which are no less stringent than federal and state laws forbidding employers generally from discriminating on the basis of race, color, religion, national origin, gender, sexual orientation, age, or disability; provided that notwithstanding the foregoing, the Tribe hereby confirms that all Indian preference laws and policies of the Tribe apply to all Gaming Facilities.

7. Hopland Gaming Facility Workers' Compensation Ordinance. [Compact Section 10.3]

The previous voluntary election by the Tribe to require Sho-Ka-Wah Casino, and all other Hopland tribal government gaming businesses which are subject to the Compact, to participate in the California Workers' Compensation system for employee work-related injuries is hereby reaffirmed and ratified. The Tribe reserves the right to withdraw at any time from that system without prejudice to the coverage of its employees, upon creation by the Tribe of, or its election to enter into, a system that provides redress for employee work-related injuries through requiring insurance or self-insurance, which system shall include a scope of coverage, availability of an independent medical examination, right to notice, hearings before an independent tribunal, a means of enforcement of decisions of that tribunal, and benefits comparable to those mandated for comparable employees under state law. All contracts between the Tribe's Gaming Facilities and independent contractors shall require that the contractors comply with all state workers' compensation laws and obligations. The Tribe delegates to the Commission the authority to adopt regulations consistent with applicable tribal, state, and federal law, and to enforce this Ordinance and the regulations in connection with the operation of all Gaming Facilities.

8. Cashing Certain Checks. [Compact Section 10.2(h)]

The Tribe hereby adopts as tribal law, and its Gaming Facilities shall comply with, standards that are no less stringent than state laws, if any, prohibiting a gaming enterprises from cashing any check drawn against a federal, state, county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments, or public assistance payments. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision in connection with the operation and maintenance of all Gaming Facilities.

9. Prohibited Promotional Incentives. [Compact Section 10.2 (i)]

The Tribe hereby adopts as tribal law, and its Gaming Facilities shall comply with, standards that are no less stringent than state laws, if any, prohibiting a gaming enterprise from providing, allowing, contracting to provide, or arranging to provide alcoholic beverages, or food or lodging for no charge or at reduced prices at a gambling establishment or lodging facility as an incentive or enticement. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision and the regulations in connection with the operation and maintenance of all Gaming Facilities.

10. Extensions of Credit. [Compact Section 10.2(j)]

The Tribe hereby adopts as tribal law, and its Gaming Facilities shall comply with, standards that are no less stringent than state laws, if any, prohibiting extensions of credit to patrons of gaming businesses. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision and the regulations in connection with the operation and maintenance of all Gaming Facilities.

11. Bank Secrecy Act. [Compact Section 10.2(k)]

All Tribal Gaming Facilities shall comply with the provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. Sec. 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, to the extent that such provisions and reporting requirements are applicable to casinos. The Tribe delegates to the Commission the authority to adopt necessary regulations and to enforce this provision and the regulations in connection with the operation and maintenance of all Gaming Facilities.

12. Withholding of Taxes From Employees Who Are Not Tribal Members [Compact Section 10.3(c)]

As a matter of comity, with respect to persons employed at the Gaming Facility, other than members of the Tribe, the Tribal Gaming Operation shall withhold all taxes due to the State as provided in the California Unemployment Insurance Code and the Revenue and Taxation Code, and shall forward such amounts as provided in said Codes to the State.

13. No Submission to Jurisdiction, Waiver of Sovereign Immunity or Impairment of Sovereignty.

Nothing in this Comprehensive Class III Tribal Gaming Facility Standards Ordinance shall be deemed to submit the Tribe to the jurisdiction of the State of California or any other governmental entity, or to waive the sovereign immunity of the Tribe or otherwise impair its sovereignty.

14. Ordinance Applicable to Gaming Facilities Only.

The provisions of this Ordinance shall apply only to Gaming Facilities as defined herein.

15. Effective Immediately.

This Comprehensive Class III Tribal Gaming Facility Standards Ordinance shall be effective immediately.

CERTIFICATION

This is to certify that the foregoing Comprehensive Class III Tribal Gaming Facility Standards Ordinance was adopted by the Hopland Tribal Council, at a duly noticed meeting at which a quorum was present, on August 23, 2000, by a vote of 6 in favor, 0 opposed and 0 abstaining.

ATTEST:

Sandra C. Sigala
Sandra C. Sigala, Tribal Chairperson

Deborah Rivera
Deborah Rivera, Tribal Secretary

8-23-00
Date

8-23-00
Date

**TITLE 1
SECTION 8**

TORT LIABILITY ORDINANCE

Sections:

- 1.801 Title
- 1.802 Findings
- 1.803 Purpose
- 1.804 Definitions
- 1.805 Claims Covered by this Ordinance
- 1.806 Claims Excluded by this Ordinance
- 1.807 Recognized Tribal Defenses
- 1.809 Finality
- 1.810 Presentation of Claims
- 1.811 Certification or Rejection of Claims
- 1.812 Claim Investigation and Resolution
- 1.813 Payment of Awards and Attorney's Fees
- 1.814 Sovereign Immunity
- 1.815 Severability
- 1.816 Repealer
- 1.817 Effective Date

1.801 Title

This Ordinance shall be entitled the "Hopland Band of Pomo Indians Tort Liability Ordinance."

1.802 Findings

(a) The gaming enterprise of the Hopland Band of Pomo Indians ("Tribe") relies on the trust and confidence of its patrons. The Tribe desires that patrons of the Tribe's gaming enterprise feel safe and secure when on the premises of that enterprise. To that end, the Tribe wants patrons to know that recourse is available to persons who suffer injuries while on the premises of the Tribe's gaming enterprise.

(b) The Tribe endeavors to take all reasonable precautions to protect the health, safety and welfare of Reservation visitors and patrons of tribal business enterprises, but despite these efforts, accidents occasionally occur. The Tribe desires to create a remedy by which any person who is injured at or in connection with the operation of a Tribal gaming facility on the Hopland Indian Reservation as a result of the negligent act or omission of any officer, employee, or agent of the Tribe who was acting within the scope of his or her office, employment, or agency, may be made whole; provided, however, that no claim for punitive damages or attorneys' fees may be asserted against the Tribe or any person acting in an official capacity and within the course and scope of his/her authority as an officer, employee or agent of the Tribe.

(c) The Tribe desires and intends by the enactment of this Ordinance to comply with Section 10.2(d) of the Tribal-State Gaming Compact between the Tribe and the State of California.

1.803 Purpose

(b) To establish time limits, substantive standards, procedures for the filing, and prompt and fair adjudication of any claims against the Tribe for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful acts of any Tribal official, agent or employee while acting within the scope of his/her office or employment on the premises of the Tribe's Gaming Facility or in the operation of the Tribe's Gaming Enterprise, and assuring payment of claims determined to be legitimate;

(c) To establish liability insurance requirements for the Tribe's Gaming Enterprise; and

(d) To grant a limited waiver of the Tribe's sovereign immunity solely for claims authorized by this Ordinance and filed in compliance therewith, and to the enforcement of judgments and/or awards rendered hereunder.

1.804 Definitions

The following terms as used in this Ordinance shall have the following meanings:

"Arbitration Panel" means the impartial person or entity to whom the Tribe has assigned the authority and responsibility to review and decide appeals from: (1) the Tribal Council's rejection of a claim for failure to timely comply with the procedures established in this Ordinance or allege a Compensable Injury; (2) the Tribal Council's or Tribal Gaming Agency's denial of a Certified Claim for a Claimant's failure to establish by a preponderance of the evidence that the Tribe is liable to the Claimant on a Certified Claim; (3) the adequacy of an Award granted by the Tribal Gaming Agency or Tribal Council on a Certified Claim; or (4) the failure of the Tribe or its insurer to timely pay an Award.

"Award" means the financial remedy offered a Claimant by the Tribal Council or Tribal Gaming Agency to resolve a Certified Claim timely filed under this Ordinance.

"Certified Claim" means a Claim that the Tribal Council has certified as complying with all procedural requirements and stating a prima facie case that a Claimant has sustained a Compensable Injury.

"Claim" means the written document, together with such supporting information as a Claimant may wish to provide, alleging a Compensable Injury to person or property that is prepared by the Claimant and delivered to the Tribal Council as provided herein.

"Claimant" means the individual who submits a Claim to the Tribal Council.

"Compact" means the Tribal-State Class III gaming compact executed by the Governor of California and the Tribe, ratified by the California Legislature and approved or considered to have been approved by the Secretary of the Interior or an authorized representative thereof.

"Compensable Injury" means an injury to person or property that occurs on the premises of the Tribe's Gaming Facility or in connection with the Tribe's Gaming Operation, the proximate cause of which was the negligent or intentional act of a Tribal official, agent or employee acting in the course and scope of his/her employment by the Tribe and within the scope of his/her authority. "Compensable Injury" does not include official, agent or employee in connection with his/her employment or performance of official duties, any claim for punitive or exemplary damages, any injury proximately caused by a negligent or intentional act that was committed outside the course and scope of the employment and/or authority of a Tribal official, employee or agent, or any injury proximately caused by the act or omission of any person who is not an officer, employee or agent of the Tribe or who is not otherwise directly subject to the Tribe's direction, supervision or control. For the purposes of this Ordinance, a Claim may not be certified if the person or entity alleged to have been the proximate cause of a Compensable Injury was not, at the time the injury was sustained, either an elected or appointed official of the Tribe, an employee or agent of the Tribe, or party to a contract with the Tribe in connection with the operation or maintenance of a Tribal Gaming Facility or any facility appurtenant thereto. The Tribe specifically disclaims, and shall not be liable or responsible for, any acts or omissions committed by any patron of a Tribal Gaming Facility.

"Gaming Facility" means any building in which Class III gaming activities or gaming operations occur on Indian lands over which the Tribe exercises jurisdiction

"Gaming Operation" means any business enterprise owned by the Tribe that offers and operates Class III gaming activities on Indian lands over which the Tribe

"Hopland Indian Reservation" means all those lands within the exterior exercises jurisdiction.

"Rejected Claim" means a Claim that the Tribe cannot certify because Claimant has failed to comply with one or more procedural requirements as provided herein, including deadlines for filing claims or evidence supporting a claim.

"Hopland Band of Pomo Indians" means the federally recognized Indian tribe with jurisdiction over the Hopland Indian Reservation.

"Tribal Gaming Agency" means the Hopland Band of Pomo Indians Gaming Commission.

1.815 Claims Covered by this Ordinance

(a) This Ordinance creates both procedures and substantive rights or causes of action for redress of Compensable Injuries to person or property proximately caused by the negligent or intentional acts or omissions by an officer, employee or agent of the Tribe on the premises of the Tribe's Gaming Facility or in connection with the operation of the Tribe's Gaming Operation.

(b) Except as otherwise specifically provided herein, the Tribe shall be liable, with respect to tort claims arising under this Ordinance, in the same manner and to the same extent as the United States would be liable under like circumstances pursuant to 28 U.S.C. §2674 (the Federal Tort Claims Act), but shall not be liable for interest prior to judgment or for punitive or exemplary damages. If, however, in any case wherein death has occurred and the law of the State of California provides, or has been construed to provide, for damages only punitive in nature, the Tribe shall be liable only for actual or compensatory damages to the person, measured by the pecuniary injuries resulting from such death to the persons for whose benefit the claim is brought. With respect to any claim asserted under this Ordinance, the Tribe shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the officer, agent or employee of the Tribe whose act or omission gave rise to the claim, as well as any other defenses to which the Tribe is entitled. In no event shall the Tribe be held liable for damages in excess of five million dollars (\$5,000,000), and then only to the extent that such damages are covered by insurance required under the terms of the Tribe's Compact.

(c) The Tribal Council, or its designee, in accordance with the terms of this Ordinance, may consider, investigate, ascertain, adjust, determine, compromise, arbitrate, mediate, adjudicate, and settle any claim for money damages against the Tribe for injury or loss of property or personal injury or death occurring on the premises of the Tribe's Gaming Facility or in connection with the operation of the Tribe's Gaming Operation, caused by the negligent or wrongful act or omission of any officer, employee, or agent of the Tribe (not including an independent contractor) while acting within the scope of his or her office, employment, or agency, under circumstances where the United States, if a private person, would be liable to a claimant in accordance with the laws of the State of California as applied to the United States under 28 U.S.C. §§ 2672 and 2674, as limited hereafter.

(d) The Tribe may be determined to be liable for injury caused by a boundaries of the Hopland Indian Reservation in Mendocino County, California, held in trust for the Hopland Band of Pomo Indians by the United States of America.

"Tribal Council" means the Hopland Band of Pomo Indians Tribal Council.

dangerous condition of its property only if the Claimant establishes that the Tribal property was in a dangerous condition at the time of the injury, that the injury was

proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury that was incurred, and that either:

- (1) a negligent or wrongful act or omission of an officer, employee, or agent within the scope of his or her office, employment, or agency created the dangerous condition; or
- (2) the Tribe had actual knowledge or constructive notice of the dangerous condition and sufficient time prior to the injury to have taken measures to remedy or protect against the dangerous condition.

(e) Notwithstanding the foregoing, nothing in this Ordinance creates any substantive right to relief or consents to the maintenance against the Tribe of any Claim based upon any act or omission on or near any property owned by the Tribe of persons who are not officers, employees or agents of the Tribe acting within the course and scope of their authority and/or employment.

(f) The Tribe shall not be liable for injury or damage caused by a condition of its property if it establishes that the act or omission that created the condition was reasonable based on weighing the probability and gravity of the potential injury against the practicability and cost of taking alternative action to prevent or protect against the risk of injury, or if the Claimant knew or reasonably should have been aware of the condition prior to sustaining the injury upon which the Claim is based.

(g) The Tribe shall not be liable for interest prior to judgment or for punitive damages. In claims for wrongful death, the Tribe shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons for whose benefit the claim is brought. Claims for non-pecuniary personal injury not involving death must be personal to the Claimant, and shall be limited to one hundred thousand dollars (\$100,000). Claims for injury to or loss of property shall be limited to the fair market value of the property immediately preceding the moment of loss or injury.

(h) The Tribe shall make a copy of this Tort Liability Ordinance available to patrons and others upon written request.

1.806 Claims Excluded by this Ordinance

(a) This Ordinance does not provide any remedy or forum for alleged injuries caused by the issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization.

(b) This Ordinance does not provide any remedy or forum for alleged damages or injuries arising from actual or prospective contractual relationships between the Tribe and other parties.

(c) This Ordinance does not provide any remedy or forum for claims against the Tribe for equitable indemnity or contribution arising from third party litigation.

(d) This Ordinance does not provide any remedy or forum for claims against the Tribe for punitive or exemplary damages, or attorneys' fees.

(e) This Ordinance does not provide any remedy or forum for claims based on absolute or strict liability.

1.807 Recognized Tribal Defenses

(a) With respect to any Claim to which this Ordinance applies, the Tribe shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee or agent of the Tribe whose act or omission gave rise to the claim, as well as any other defenses to which the Tribe is entitled.

(b) This Ordinance does not provide any remedy for alleged injuries resulting from any act or omission of an officer, employee, or agent that was the result of the good faith exercise of the discretion vested in him or her, or a result of the good faith execution or enforcement of any Tribal, Federal, or California ordinance, resolution, law, or rule.

(c) This Ordinance does not provide any remedy for alleged damages or injuries arising from a misrepresentation by an officer, employee, or agent of the Tribe unless such misrepresentation was a result of actual fraud, corruption, or malice, and the Claimant reasonably relied upon such misrepresentation to his/her detriment.

1.808 Exclusive Remedy

(a) This Ordinance provides the exclusive procedure, forum, and remedy for pursuit of claims for injury to or loss of property, personal injury, or death against the Tribe or any Tribal official, agent or employee related to the Tribe's Gaming Facility or Gaming Operation.

(b) If any California or Federal court construes this Ordinance to constitute a waiver, in whole or in part, of the Tribe's sovereign immunity except in strict accordance with the terms of this Ordinance, this Ordinance shall immediately and without further action become null and void, retroactive to the day prior to the incident or occurrence giving rise to such judicial decision.

1.809 Finality

(a) Except as otherwise expressly provided herein, any Award, compromise, settlement, or determination of a Claim under this Ordinance must be in writing and approved by the Tribal Council.

(b) Any Award, compromise, settlement, or determination of a Claim under this Ordinance shall be final and conclusive on the Tribe, except when procured by means of fraud, and subject to the Claimant's right to have the rejection or denial of a Claim or an Award reviewed by an Arbitration Panel. The determination of an Arbitration Panel shall be final and conclusive upon both the Claimant and the Tribe. The decision of an Arbitration Panel may be enforced in the United States District Court for the Northern District of California under the Federal Arbitration Act, 9 U.S.C. §1; et seq.; provided, however, that neither an Arbitration Panel nor any court shall have jurisdiction to award damages against the Tribe that are not covered by a policy of liability insurance required under the Compact, or in an amount that exceeds the limits of such policy.

(c) The acceptance by a Claimant of any Award, compromise, settlement, or determination of a Claim shall be final and conclusive on the Claimant. Said acceptance shall constitute a complete release by the Claimant of any past, present or future claim or injury, known or unknown, arising from or related to the same or connected circumstances as against the Tribe and its officers, employees and agents whose acts or omissions gave rise to the Claim.

1.810 Presentation of Claims

(a) A Claimant or his or her representative must file a written Claim presenting all material facts relating to the alleged incident and injury. Upon request to the Tribal Gaming Agency, a claim form will be provided, but a Claimant need not use that form so long as all of the information required by that form is provided. At a minimum, the written Claim must contain the following:

- (1) the name, mailing address, and telephone number of the Claimant;
- (2) the date, location, and detailed account of the alleged incident or occurrence that gave rise to the Claim;
- (3) the identity or description of all persons involved in the incident or occurrence that gave rise to the Claim;
- (4) the identity or description of all witnesses to the incident or occurrence that gave rise to the Claim;
- (5) the alleged damage or injury suffered, and the compensation requested as of the date of the presentation of the Claim, including the estimated amount of any prospective injury, damage, or loss, together with the basis of computation of the amount claimed; and
- (6) all supporting documentary evidence and written witness statements the claimant intends to rely on.

(b) In the event that the Claimant does not possess complete information about the Claim when the Claim is presented, the Claim shall identify the information that Claimant lacks, set forth the reasons why the information cannot be presented with the initial submission of the Claim, and request that the Claimant's time to complete submission of the Claim be extended by the amount of time, not to exceed 180 days from the date of initial submission, that Claimant anticipates will be required to obtain and submit the additional information.

(c) The Claim must be signed by the Claimant under penalty of perjury. If the Claimant is unable to sign the Claim because of physical or mental incapacity, or because the Claimant is deceased, the Claim must be signed under penalty of perjury by another person with personal knowledge of the contents of the Claim.

(d) Claimant must file his/her Claim with the Tribal Council, Hopland Band of Pomo Indians, 3000 Shanel Rd., Hopland, CA 95449, either by personal delivery, certified U.S. mail, return receipt requested, or overnight courier with proof of delivery requested. To be timely submitted, the Claim must be received by the Tribal Council no later than one hundred eighty (180) calendar days after the date of the alleged incident or occurrence, unless this period is extended by written agreement of the Tribe before the expiration of that initial period or the Claimant was physically or mentally incapable of submitting the Claim within that period. If the 180th day falls on a Saturday, Sunday, or officially-recognized Federal, or Tribal holiday, the 180th day shall be deemed to be the next business day. This time limit is jurisdictional and shall be strictly construed to preclude late-filed Claims. If the Claim was not timely filed due to the physical or mental incapacity of the Claimant, the Claim must be accompanied by a declaration under penalty of perjury by the Claimant's treating physician attesting to the date upon which Claimant became incapacitated and the date upon which Claimant regained capacity, or an order of a court of competent jurisdiction to the same effect. The time for filing a Claim will be tolled during the period of incapacity so established. Otherwise, the Tribe may relieve a Claimant of untimeliness, at the Tribe's sole discretion, only if such untimeliness was a result of excusable neglect.

(e) Unless a Claimant has requested and obtained from the Tribal Council leave to supplement his/her Claim, a Claimant may amend or supplement the Claim at any time within one hundred eighty (180) calendar days of the alleged incident or occurrence upon which the Claim is based, but only if the amendment relates to the same transaction or occurrence that gave rise to the original claim. Thereafter, the Claimant may amend the Claim only with the consent of the Tribal Council or its designated representative.

SECTION 11: Certification or Rejection of Claims

(a) Within thirty (30) calendar days of the receipt of a Claim, the Tribal Council or its designated representative will determine whether:

- (1) the Claim was received by the Tribal Council within one hundred eighty (180) calendar days of the alleged incident or occurrence;
- (2) the Claim as presented substantially complies with the above-described content requirements and is signed under penalty of perjury;

- (3) the incident or occurrence alleged by the Claim occurred on the premises of the Tribe's Gaming Facility or in connection with the operation of the Tribe's Gaming Operation;
- (4) the alleged injury or damage may have been the proximate result of a negligent or wrongful act or omission of any officer, employee, or agent of the Tribe, or that such act or omission may have been a contributing cause of the alleged injury or damage; and
- (5) the Claim seeks a remedy created by and available under this Ordinance.

These determinations shall be made solely for the purpose of certifying the Claim for further proceedings, and shall not constitute a determination of the merits of the Claim.

(b) If the Claim does not meet one or more of the above-listed requirements, the Claim shall not be certified. In such case the Tribe or its designated representative shall send to the Claimant a written "Rejection of Claim" stating all grounds for the Tribe's failure to certify the claim. A Claim that is neither rejected nor certified by the Tribal Council within sixty (60) days after receipt of the Claim by the Tribal Council shall be deemed to have been denied.

(c) A Claimant may appeal a Rejection of Claim by submitting a notice of appeal to the Tribal Gaming Agency within thirty (30) calendar days of the date of issuance of the Rejection of Claim, or, if no such notice is issued, between sixty (60) and ninety (90) days after the Claim was delivered to the Tribe. The Notice of Appeal shall be accompanied by a non-refundable payment to the Tribal Gaming Agency of a processing fee of two hundred fifty dollars (\$250). The Tribal Gaming Agency then shall be responsible for convening an arbitration panel to review the rejection. The Claimant and the Tribal Gaming Agency each shall deposit one-half of the fees and costs for the Arbitration Panel before the panel is convened. The prevailing party on appeal shall be entitled to a refund of its portion of the advanced fees and costs, and the non-prevailing party shall be obligated to pay the balance of the fees and costs of the Arbitration Panel. The Claimant shall have the burden of proving by a preponderance of admissible evidence that rejection of the Claim was improper. All proceedings on such an appeal shall be conducted on the basis of written declarations under penalty of perjury, properly authenticated documentary evidence, and written arguments, in accordance with a schedule and procedural rules to be established by the Arbitration Panel. No discovery shall be allowed in such a proceeding. Appeals from rejected Claims shall be concluded within ninety (90) days after the Arbitration Panel has been convened.

(d) If the Claim is certified, the Tribe or its designated representative shall send to Claimant no later than the sixty-fifth (65th) calendar day after the receipt of the Claim a written "Certification of Claim." The Claim thereupon shall be forwarded to the Tribal Council or its designated representative for such investigation and fact finding as is reasonably necessary to evaluate the merits of the Claim. In the absence of extraordinary circumstances, such as the unavailability of witnesses or non-cooperation of repositories of information, investigation of the Claim should be concluded within sixty (60) days after the Claim is certified.

1.801 Claim Investigation and Resolution

(a) Upon certification of a Claim, the Tribal Council shall refer the Claim to the Tribal Gaming Agency.

(b) If a Certified Claim on its face alleges special or general damages of one hundred thousand dollars (\$100,000) or less, the Tribal Gaming Agency shall be authorized to render a final decision on the Claim, which decision shall be binding on the Tribe and its insurer. For Certified Claims alleging special or general damages in excess of one hundred thousand dollars (\$100,000), the Tribal Council shall render the final decision, based upon findings of fact, conclusions of law and the recommended decision of the Tribal Gaming Agency.

(c) If requested by the Claimant, the Tribal Gaming Agency shall conduct an evidentiary hearing at which the Claimant may appear and present oral testimony and documentary evidence in support of his/her claim. In its discretion, the Tribal Gaming Agency may delegate the actual conduct of the hearing to a presiding officer, who may either be a member of the Tribal Gaming Agency or a third-party neutral retained through the American Arbitration Association or other alternative dispute resolution agency or entity. The Tribal Gaming Agency shall be authorized to prescribe rules of practice and procedures for the presentation and hearing of Certified Claims. Unless good cause to the contrary is found to exist, the Tribal Gaming Agency shall convene the evidentiary hearing within one year after receiving the Claimant's request for a hearing.

(d) The Tribal Gaming Agency shall permit such pre-hearing discovery as it may deem reasonably necessary to ensure presentation of sufficient information to enable the Tribal Gaming Agency to ascertain the relevant facts and applicable law. The Federal Rules of Civil Procedure shall be used as a guideline for the conduct of discovery, although the Tribal Gaming Agency need not adhere in every respect to those Rules in authorizing depositions, written interrogatories and production of other forms of evidence.

(e) At the evidentiary hearing, a representative of the Tribe or the Tribe's insurer may cross-examine any witnesses presented by the Claimant, and offer rebuttal evidence. The Claimant shall be entitled to cross-examine any witnesses presented by the Tribe or the Tribe's insurer. Admissibility of evidence shall be determined in accordance with the Federal Rules of Evidence, and the Claimant shall have the burden of proving by a preponderance of the evidence both that the Tribe is liable for the Claimant's injuries and the compensation due therefore. Within sixty (60) days after the conclusion of the evidentiary hearing, the Tribal Gaming Agency shall issue written findings of fact, conclusions of law and a final decision or a recommended decision to the Tribal Council where appropriate. If the Tribal Council finds that a Certified Claim in excess of one hundred thousand dollars (\$100,000) is proper and substantiated, the Tribe shall allow the amount justly due Claimant. Unless good cause to the contrary is found by the Tribal Council, the Tribal Council shall issue its final decision on a Certified Claim within ninety (90) days after receiving the Tribal Gaming Agency's findings of fact, conclusions of law and recommended decision.

(f) The Claimant may appeal a final decision as to liability or the amount of damages awarded, based upon the evidentiary record presented to the decision-making body. An appeal shall be initiated by the filing of a Notice of Appeal with the Tribal Gaming Agency or the Tribal Council, whichever body rendered the final decision, within thirty (30) days after mailing of the final decision to the Claimant. Appeals shall be to an arbitration panel consisting of three independent and neutral arbitrators selected under the auspices of the American Arbitration Association ("AAA"). The arbitration panel shall process the appeal in accordance with the Commercial Arbitration Rules of the AAA without regard to any rule that might be construed as a waiver of sovereign immunity, and shall decide the appeal according to the same standard of appellate review that would apply to the review of an analogous decision of a federal district court by a federal court of appeals. Each party shall bear its own costs, and the fees and costs of the arbitration panel shall be shared equally by the parties. The decision of the arbitration panel shall be final and conclusive.

1.813 Payment of Awards and Attorneys' Fees

(a) The Tribe shall carry no less than five million dollars (\$5,000,000) in public liability insurance for patron and other claims. The Tribe shall not be obligated to pay any award that is not covered by, or exceeds the policy limits of, the Tribe's public liability insurance. The Tribe or the Tribe's insurer shall pay any cognizable award in the same manner and at the same time as judgments rendered in the courts of the United States.

(b) No attorney representing a Claimant pursuant to this Ordinance shall charge, demand, receive, or collect from the Claimant for services rendered on the Claim, fees in excess of twenty-five percent (25%) of any judgment, settlement, or award rendered or paid by the Tribe or its insurer to the Claimant. Each attorney who appears on behalf of a Claimant must attest under penalty of perjury to his/her compliance with the limitations set forth in this paragraph. By making such attestation, the attorney agrees that if the attestation is false, the Tribe may bring an action against the attorney in either state or federal court to recover the amount of all fees actually charged to the Claimant and report such falsehood to the appropriate state bar.

(c) The Tribe, in its sole discretion, may award a successful Claimant attorneys' fees and costs, subject to the limits above, based on the equities and circumstances of the Claim.

1.814 Sovereign Immunity

Except as expressly provided herein, this Ordinance does not constitute a waiver of the sovereign immunity of the Tribe or its officers, employees, attorneys, and agents, and the Tribe reserves all rights for itself and its officers, employees, attorneys, and agents not expressly waived by this Ordinance.

1.815 Severability

Except for the provision that neither an Arbitration Panel nor a court has jurisdiction to award damages against the Tribe that are not covered by a policy of liability insurance

required under the Compact, or in an amount that exceeds the limits of such policy, and except for the provision that if any California or Federal court construes this Ordinance to constitute a waiver, in whole or in part, of the Tribe's sovereign immunity except in strict accordance with the terms of this Ordinance, this Ordinance shall immediately and without further action become null and void, retroactive to the day prior to the incident or occurrence giving rise to such judicial decision, if any other part of this Ordinance is declared void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Ordinance shall not be impaired and shall continue in full force and effect.

1.816 Repealer

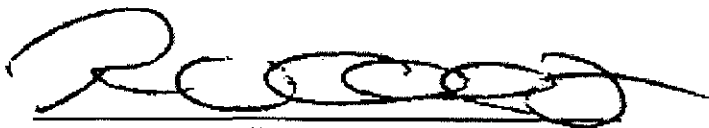
This Ordinance supersedes, replaces, and repeals all conflicting provisions of any and all prior laws, codes, ordinances, rules, and regulations of the Hopland Band of Pomo Indians, including the Tribal Claims Ordinance as it relates to the Tribe's Gaming Facility or Gaming Operation as set forth herein. If the provisions of this Ordinance conflict with the provisions of any other law, code, ordinance, rule or regulation, the provisions of this Ordinance will control.

1.817 Effective Date

This Ordinance shall take effect immediately upon its adoption by the Tribal Council.

CERTIFICATION

We, Roman Carrillo, Tribal Chair, and Pamela Espinoza, Tribal Secretary, serving in our official capacities for the Hopland Band of Pomo Indians, hereby certify that the foregoing Ordinance was enacted by a vote of 6 in favor, 0 against, and 0 disqualified at a duly-noticed meeting of the Tribal Council with a quorum present held on October 21, 2008 at Hopland California.



Roman Carrillo, Tribal Chair



Pamela Espinoza, Tribal Secretary

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CHAPTER 12-1 TRIBAL COURT ORDINANCE

Section 12-1.10 Definitions. For the purpose of this ordinance the following words and phrases shall have the following meanings:

- (a) “*Attorney*” or “*Counsel*” shall mean any person admitted to a bar of any state.
- (b) “*Immediate Family*” shall mean a person’s parent, sibling, child, or spouse.
- (c) “*Peacemaker*” shall mean a mediator who is a tribal member listed on the Peace Making Roster.
- (d) “*Reservation*” shall mean all lands within the exterior boundaries of the Hopland Indian Reservation and lands held in trust for the Tribe or a Tribal member by the United States.
- (e) “*Big Talker*” shall mean any person not admitted to a bar of any state that is a tribal member or a relative of a party and speaks for a party in a case filed in the Tribal Court.
- (f) “*Supreme Court*” shall mean the trial court, as opposed to the appellate court, if any, of the Tribal Court.
- (g) “*Tribal Court*” shall mean the entire court of the Hopland Band of Pomo Indians, including all divisions and inferior courts, unless the context indicates that another Tribe’s court is intended.
- (h) “*Tribe*” shall mean the Hopland Band of Pomo Indians.

Section 12-1.20 Establishment of Court. There is established for the Tribe a court to be known as the Hopland Tribal Court. The Tribal Court shall be empowered to exercise the judicial authority of the Tribe as delegated herein.

12-1.20.010 The Supreme Court shall consist of at least three judges.; one (1) Chief Judge and at least two (2) Associate Judges appointed by the Tribal Chairperson and confirmed by not less than a three-fourths (3/4) majority vote of the Tribal Council. Such judges may be appointed on a temporary or permanent basis. The Tribal Council or the Tribal Court is empowered to create such specialized divisions or inferior courts as necessary to hear matters as defined in the Tribe’s ordinances.

12-1.20.020 In addition to the Supreme Court there may be established a roster of Peacemakers to mediate disputes between parties before trying the case in Tribal Court. A Peacemaker is an optional way for peacefully resolving disputes and can be used only with the consent of all parties. A Peacemaker may be used by the parties even before a case is filed in Tribal Court so long as the parties notify and coordinate through the Tribal Court. Parties utilizing a Peacemaker are not prohibited from continuing their case in the Tribal Court should the dispute resolution prove unsuccessful.

Section 12-1.30 Jurisdiction and Powers.

12-1.30.010 Civil Jurisdiction.

(A) Subject Matter Jurisdiction. The Tribal Court shall have civil jurisdiction over all matters in law or in equity which the Tribal Council expressly authorizes by ordinance. The Tribal Court shall have no jurisdiction to hear any matter filed -against the Tribe, the Tribal Council, or any individual member of the Tribal Council when acting in his or her official capacity. The Tribal Court should decline to exercise its jurisdiction if it finds any of the following to exist:

- (1) *Another court has the jurisdiction to hear the case and would be more convenient for the parties than the Tribal Court;*
- (2) *One or more of the parties is not a person over which the Tribal Court can exercise its authority;*
- (3) *The matter involves a question or dispute better resolved by the Tribal Council or General Council because of the inherently political nature of the question or dispute, including but not limited to where:*
 - (a) the Tribe's Constitution has committed decision- making on the subject to the Tribal Council or General Council; or*
 - (b) no adequate standards exist for the court to apply; or*
 - (c) the Tribal Court believes it is prudent not to interfere.*
 - (d) The case is of such a nature that the Tribal Court should not hear it.*

(B) Territorial Jurisdiction: The Tribal Court shall exercise civil jurisdiction as stated in subsection (1) on all lands within the exterior boundaries of the Reservation and (2) on all lands owned by the United States of America in trust for the Tribe or a Tribal member. The scope of the Tribal Court's civil jurisdiction shall extend to the following individuals:

- (1) *Tribal members;*
- (2) *Anyone the Tribe formally recognizes as Indian;*
- (3) *Other Indians;*
- (4) *Anyone who consents to Tribal Court jurisdiction;*
- (5) *Other individuals or entities whose conduct affects the ability of the Tribe to govern itself;*
- (6) *all other individuals whose conduct threatens or has some direct effect on the political integrity, the economic security, or the health and welfare of the Tribe.*

(C) Concurrent Jurisdiction: The Tribal Council recognizes that Public Law 83-280 granted concurrent jurisdiction to the State of California over some criminal and civil

matters on the Reservation. The Tribal Court shall exercise its jurisdiction in all areas to the extent delegated by Tribal ordinance.

12-1.30.020 Criminal Jurisdiction.

(A) The Tribal Court shall have jurisdiction over all criminal offenses set forth in an ordinance when committed by an Indian within the exterior boundaries of the Reservation or on any land owned by the United States of America in trust for the Tribe or a Tribal member.

(B) For purposes of this subsection, an Indian shall be any person of Indian descent who is a member of any federally recognized Indian Tribe.

(C) In all criminal prosecutions, the accused shall enjoy the right to a speedy jury trial, to be informed of the nature and cause of the accusations, to be confronted with the witnesses against him, the right of cross-examination, to have compulsory process for obtaining witnesses in his or her favor, and to have the assistance of an advocate for his or her defense admitted to practice before the Tribal Court.

12-1.30.030 Powers. The Tribal Court is granted all the powers necessary to exercise its jurisdiction in accordance with the procedures set forth in this Ordinance. Additionally, the Tribal Court may exercise its jurisdiction in accordance with any suitable procedures where specific procedures are not set forth in this Ordinance, so long as such procedures are in accordance with the Tribe's Constitution. The Chief Judge, in consultation with the Tribal Council, or the Tribal Council on its own accord, shall promulgate such rules of procedure and evidence that are necessary for the efficient prosecution or processing of cases through the Tribal Court.

12-1.30.040 Full Faith and Credit. The Tribal Court shall give full faith and credit to the orders and judgments of the courts of other tribes, states, countries, and the federal government unless:

(A) The court in question does not recognize the orders and judgments of the Tribal Court;

(B) The court in question did not have jurisdiction over the case or a party or parties to it;

(C) The order or judgment was based on fraud;

(D) To do so would violate the public policy of the Tribe; or

(E) The order or judgment is not final.

Section 12-1.40 Judges.

12-1.40.010 Qualifications.

(A) Chief Judge: The Chief Judge shall be at least 35 years of age and be a graduate from an accredited law school and have experience in the area of federal Indian Law for five years or more.

(B) Associate Judge: The Associate Judge shall be at least 30 years of age with a bachelor's degree; the equivalent of one year Tribal Court training; and, demonstrable knowledge of Indian Law, federal law, and California law.

(C) No person shall serve as Judge of the Tribal Court who has been convicted of: (1) a felony at anytime or (2) misdemeanor within one year from receiving his or her appointment. No person shall serve as a Judge of the Tribal Court until a bond has been posted, at tribal expense, in an amount determined by the Tribal Council or, until the person is covered by a blanket bond provided for all tribal employees, unless waived by the Tribal Council. No person shall serve as a Judge of the Tribal Court who holds any elective or appointive office of the Tribe.

12-1.40.020 Appointment and Term of Service. After advertisement and interviewing by the Tribal Council, the Tribal Chairperson will appoint a judge who must be confirmed by not less than a three-fourths (3/4) majority vote of the Tribal Council. Preference will be given to Tribal members first and Indians of other tribes second.

12-1.40.030 Duties.

(A) Chief Judge. The Chief Judge will be responsible for:

- (1) *Developing rules of procedure and evidence for the efficient operation of the Tribal Court, subject to approval by the Tribal Council;*
- (2) *Hearing all matters delegated to the Court by ordinance;*
- (3) *Development and maintenance of a list of Temporary Judges to be called upon to hear cases in the event of disqualification of a judge or as deemed necessary;*
- (4) *Development and maintenance, with the assistance of the Clerk of the Court, of a system for record keeping and docket system;*
- (5) *Maintenance of current copies of Tribal, Federal, and State of California laws applicable to proceedings coming before the Tribal Court;*
- (6) *Preparation of the Court's annual plan and budget;*
- (7) *Issuing receipts for any monies collected or paid out by the Tribal Court;*
- (8) *Depositing all receipts into the Tribal accounting system earmarked for inclusion in the Tribal Court's annual plan and budget, and*
- (9) *Supervising and coordinating training of Court personnel and Peacemakers.*

- (B) Associate Judge. The Associate Judge will be responsible for hearing all cases as are assigned by the Chief Judge and other duties as assigned by the Chief Judge.

12-1.40.040 Removal.

(A) During the tenure of his or her appointment, any Judge may be suspended, dismissed, or removed only for just cause by a unanimous vote of the Tribal Council. Except for suspension, dismissal, or removal based on lack of funding, the Tribal Chairperson or his/her designate shall make available copies of a written statement setting out the facts and reasons for the proposed action to the Judge in question, the other Judges, and to members of the Tribal Council at least fourteen (14) calendar days before the next regularly scheduled meeting of the Tribal Council at which the charges shall be presented. The Secretary of the Tribal Council shall give notice of the hearing to the Judge by personal service and to the Tribal Membership by posting a notice of the date, place and time of the hearing in the Tribal Newsletter, at the Tribal Council office and at least two other conspicuous places on the Reservation. The meeting shall be a public hearing where the accused Judge shall be given an adequate opportunity to answer any and all charges.

(B) Cause shall be defined as malfeasance in office, corruption, neglect of duty, misconduct or incompetence in performance of duty, personal conduct involving moral turpitude whether or not related to judicial duties, conduct that brings disrepute on the office, conviction of a felony or misdemeanor, excluding minor traffic violations, or lack of funding. No Judge shall be removed from office for exercising his/her discretion or for making a decision in a case that the Council does not agree with. The decision of the Tribal Council to suspend, dismiss, or remove a Judge shall be final.

12-1.40.050 Disqualification.

(A) Conflict of Interest.

- (1) *No Judge shall be qualified to act as such in any case where she/he has any direct interest, or where any party involved in the case includes a relative by marriage or blood in the first or second degree. A Judge may be disqualified upon his/her own motion or by application by any party in the proceeding upon filing a verified motion in writing.*

(B) Bias or Prejudice.

- (1) *Upon the filing of an affidavit or declaration under penalty of perjury by a party setting forth facts establishing that by reason of bias or prejudice of the Judge to whom the case is assigned, the party cannot have a fair trial, the Judge shall disqualify himself/herself. Such affidavit shall be filed five days prior to trial.*

12-1.40.060 Temporary Judges.

(A) In the event that there is no qualified permanent Judge available to hear a particular case, the Chief Judge shall appoint a qualified Temporary Judge who will have the full powers of a regularly-appointed Tribal Judge to hear and dispose of the case. The qualifications for Temporary Judges must meet the minimum qualification of Associate Judges. Such appointment shall be only for the period of time necessary to dispose of the case in question, and shall not be used to avoid giving full tenure to a regularly appointed Judge.

Section 12-1.50 Court Clerk Liaison (aka Court Clerk).

12-1.50.010 Qualifications.

(A) The Court Clerk Liaison shall have a high school diploma or the equivalent thereof; have a minimum of two years experience as a paid secretary or paid Clerk; be eligible to become a registered notary and shall not have been convicted of a felony or any other crime involving dishonesty within three years from the date of hire. There shall be preference in hiring Tribal members first and members of other Tribes second. There will be a three (3) month probationary period after hiring.

12-1.50.020 Duties. The Court Clerk shall not give legal advice to any person but shall:

- (A) Give assistance to the Tribal Court, and the Tribal Police in drafting pleadings, orders, summons, warrants, and other documents as required;
- (B) Attend all sessions of the Tribal Court;
- (C) Keep a record of all proceedings of the Tribal Court;
- (D) Administer oaths to witnesses;
- (E) Collect all fines and deposit them as directed by the Chief Judge pursuant to this Ordinance;
- (F) Pay out all fees ordered and accounted for pursuant to this Ordinance;
- (G) Account for all monies handled through the Tribal Court; and
- (H) Any other duties as directed by the Chief Judge.

12-1.50.030 Bond. The Court Clerk shall be bonded, at Tribal expense, in an amount determined by the Chief Judge unless waived by the Tribal Council.

12-1.50.040 Seal. The Court Clerk shall have an official seal which shall be impressed upon the original of each complaint or other paper filed with the Tribal Court, along with a notation of the day and time of filing.

Section 12-1.60 Applicable Law. When choosing what law applies, the Tribal Court shall apply the law of the Tribe first, federal law second and California law last, except to the extent that federal or state law governs.

Section 12-1.70 Appeals.

12-1.70.010 Court of Appeals. The Tribal Council may, but is not required to, sit as a court of appeals whenever necessary and may within its discretion hear appeals from the Supreme Court at any regular or special meetings.

12-1.70.020 Right to Appeal. Any party who is aggrieved by any final order, commitment, or judgment of the Tribal Court may appeal to the Tribal Council. The Tribal Council may accept or reject the appeal, in its sole discretion.

12-1.70.030 Notice of Appeal. Within thirty (30) days from the entry of the judgment or order appealed from, the aggrieved party may file a written notice of appeal with the Tribal Court. This time limit is jurisdictional. No extension of the thirty day period may be granted. The notice of appeal must include a short statement of the reasons, basis, or grounds for the appeal. Bond or assurance must be posted as set forth below and any filing fee required by Court Rules must be paid in order for the filing of the notice to be effective. The Tribal Court shall immediately forward a copy of the notice of appeal to the Tribal Council for review.

12-1.70.040 D. Bond. Upon filing the notice of appeal, the appellant must post bond, deposit cash, or give other assurance as will in the judgment the Tribal Court give adequate assurance of the performance of the judgment, or payment of the fine or judgment in the event the case appealed is affirmed. The Tribal Court has discretion to waive bond if it would be a hardship to appellant. No tribal agency, department, or governing body shall be required to post a bond.

12-1.70.050 Stay of Enforcement. In any case where a party has perfected his/her right to appeal in accordance with the rules set forth in this Ordinance, or the Rules of Court, the final order, commitment, or judgment of the Tribal Court shall be stayed pending the appeal.

12-1.70.060 Appellate Procedure. As soon as possible, but no later than sixty (60) days after a written notice of appeal has been filed in the Tribal Court, the Tribal Council shall meet and decide, in its sole discretion, whether to hear the appeal. If it decides not to hear the appeal, the Tribal Council shall so notify the Tribal Court in writing. The Tribal Court shall then so notify the parties. If it decides to hear the appeal, the Tribal Council shall set a briefing schedule, set an oral argument date, and adopt appropriate procedures. The procedures of the Tribal Council sitting as an appellate court shall be determined by the Tribal Council at any regular or special meeting.

12-1.70.070 Finality. Whenever the Tribal Council sits as an appellate court its decision shall be final and binding upon all parties to the suit and not subject to review.

Section 12-1.80 Appearances.

12-1.80.010 Counsel. Any party has a right to assistance of counsel at the party's expense. Such assistance shall be arranged by the party. Counsel must be admitted to practice in the Tribal Court.

12-1.80.020 Big Talker. Any party has a right to assistance of a Big Talker at the party's expense. The Big Talker shall be required to comply with all Ordinances and Rules adopted by the Tribal Court for the processing of cases. The Court shall not appoint counsel or a Big Talker for any party at the Tribe's expense.

12-1.80.030 Self-representation. Any individual party may appear and represent himself or herself in any proceeding before the Tribal Court. Judges of the Tribal Court shall insure that all parties have equal opportunity to present their case and cross-examine opposing witnesses. Parties representing themselves shall be held to the same strict standards of procedural conduct as are required of legal counsel.

12-1.80.040 Witnesses – Summons to Appear. On motion by any party to the case, or on the Tribal Court's own motion, the Tribal Court may issue a summons to compel the attendance of witnesses, or the production of books, records, documents, paper and things necessary to the determination of the cause. Failure to comply with a summons shall constitute contempt of court.

12-1.80.050 Witnesses – Fees. Each party shall be responsible for his/her own witnesses. The Tribe shall pay witnesses summoned on its behalf at a rate established by the Court.

Section 12-1.90 Records.

12-1.90.010 Docket. The Court Clerk shall keep a docket which shall contain the names of each plaintiff and defendant in any civil or criminal proceeding, the type of proceeding, the date of issuance and the return date of any legal order or process issued in the proceeding, the appearance or default of parties summoned, the date and the amount of any judgment, appeal, and all other proceedings and documents as directed by the Chief Judge. The Court docket shall be posted in a public place.

12-1.90.020 Copies of proceedings. Any party may obtain a certified copy of proceedings in the Tribal Court at his or her own expense; the seal of the Court Clerk shall be applied to all copies so certified. The preceding shall not apply to matters or records sealed or expunged by the Tribal Court as permitted or required by this Ordinance or Federal law.

12-1.90.030 Copies of Laws. The Tribal Court shall obtain copies of this Ordinance and copies of tribal ordinances, federal laws, and state laws and regulations as are deemed by the Tribal Court to be necessary, helpful; and proper to secure the rights and privileges of persons subject to the jurisdiction of the Tribal Court and its judicial powers and responsibilities. Copies of same shall be available for review by the public.

Section 12-1.100 Peace Making Roster.

12-1.100.010 Purpose. The purpose of the Tribe's Peace Making Roster is to provide a non-adversarial way to resolve disputes. The Peace Making process is intended to reflect the Tribe's tradition of using respected members of the community to heal conflicts among its members. The Peace Making Roster is not a tribal committee.

12-1.100.020 Appointment. The Tribal Council, with the advice of the Chief Judge and the Culture Committee, will create and maintain a roster of Peacemakers.

12-1.100.030 Qualifications. Peacemakers shall be at least 50 years of age, members of the Tribe, and known and respected in the community. No peacemaker shall serve who has been convicted of a crime within the last five (5) years of being named to the roster.

12-1.100.040 Duties. Peacemakers shall work to resolve disputes. To do this, Peacemakers shall, as needed, do the following:

- (A) Conduct informal conferences.
- (B) Insure in each conference that all relevant facts are presented and that all parties have an opportunity to speak.
- (C) Encourage the parties to reach an agreement that is acceptable to all of them.
- (D) Attend training at Tribal Court expense as requested by the Chief Judge.

12-1.100.050 Procedure.

(A) Any party who wishes to have a Peacemaker conference shall file with the Court Clerk and serve on all parties a request for conference. Within ten (10) days of the date of filing of the request, if no party has filed an objection to the request, the Tribal Court Judge shall refer the case to a member of the Peace Making Roster for mediation and possible settlement. No lawsuit need be filed or pending in the Tribal Court.

(B) A Peacemaker shall then contact the parties to schedule a Peacemaker conference and explain the basic rules of the conference. Any party may object to the Peacemaker appointed. In that case, the Tribal Court shall appoint a different Peacemaker. If a party after hearing the explanation of the goals and rules objects to holding a conference, the Peacemaker shall not hold it. If the parties want to participate in peacemaking but cannot agree on a Peacemaker, the Chief Judge shall designate a Peacemaker.

(C) If the nonmoving party agrees to a conference, the Peacemaker shall send written notice of it to the parties. The notice shall contain:

- (1) *The names of the parties.*
- (2) *The date, time, and place of the conference.*
- (3) *The allegation(s) and a brief statement of the alleged facts on which it is based.*
- (4) *A brief description of how the peacemaker conference works.*

(D) If there is no agreement on a peacemaker among the parties, the peacemaker will be designated by the Chief Judge.

12-1.100.060 Representation. No party to a peacemaking conference may be represented by counsel. A party may only be represented by a Big Talker to the extent necessary for the party to understand the nature of the proceedings.

12-1.100.070 Settlement. If the matter is resolved by the Peacemaker, the parties shall confirm the terms of the resolution in a writing signed by the parties and the Peacemaker. The writing shall be an enforceable agreement. If a lawsuit is pending, the written settlement shall be filed and treated as the final judgment. Discussions during the peacemaking conference shall be confidential and privileged and cannot be used in subsequent litigation.

Section 12-1.110 General Provisions

12-1.110.010 Repeal. All prior Ordinances or provisions of any previously enacted ordinances of the Tribe that are inconsistent or in conflict with this Ordinance are hereby repealed.

12-1.110.020 Effective Date. This Ordinance shall be effective upon its passage by the Tribal Council.

12-1.110.030 Severability. Any portion of this Ordinance that is determined by a court of competent jurisdiction to be invalid shall not affect, impair, or invalidate any other section, provision, or portion of this Ordinance.

12-1.110.040 Sovereign Immunity. Nothing herein shall be construed as a waiver of the Tribe's sovereign immunity.

History: Ordinance No. 10-12-14

CHAPTER 12-2 ATTORNEY’S FEES ORDINANCE

Section 12-2.10 Definitions. For purposes of this Ordinance, the following words and phrases shall have the meanings as set forth hereinafter unless the context clearly appears otherwise:

(a) “*Adverse Party*” means any party to any litigation who seeks any relief from the Tribe or opposes any relief requested by the Tribe.

(b) “*Tribe*” means the Hopland Band of Pomo Indians, its officers, agents and employees acting in their official capacities.

(c) “*Court*” means any court, administrative proceeding or hearing of any kind. “*Litigation*” means any hearing, administrative proceeding or court action to which the Tribe is a party.

(d) “*Prevailing Party*” means a party to litigation who obtains any relief it has sought in the litigation. The term “any relief” includes, but is not limited to, one or more but not necessarily all of the claims or defenses asserted in the action. Any party who achieves any relief sought including relief by way of settlement or unilateral act of an opposing party shall also be considered a prevailing party for purposes of this section.

Section 12-2.20 Award of Fees. In any litigation in which the Tribe is a prevailing party the Tribe shall be entitled to recover from all adverse parties all of its costs and reasonable attorney’s fees incurred in prosecuting or defending the action.

Section 12-2.30 Computation of Award. The amount of such attorney’s fees shall be established by the Court upon the filing of a cost bill as provided by law, rule, or by separate motion. In determining the amount of the fee, the court shall multiply the number of hours devoted to preparing, prosecuting or defending the action, commencing when the matter is first referred to the Tribe’s Attorney, by a reasonable hourly rate for the services provided. In determining a reasonable hourly rate, the court shall consider the reasonable market rate in the jurisdiction for the attorney’s services, taking into consideration the attorney’s experience and skill and shall not be limited to the amounts actually paid by the Tribe.

Section 12-2.40 Multiple Adverse Parties. If there is more than one adverse party, they shall be jointly and severally liable for all of the costs and attorney’s fees awarded to the Tribe by the court.

Section 12-2.50 Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid. such decision shall not effect the remaining portions of this ordinance. The Tribal Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any such provisions be declared unconstitutional or invalid.

History: Ordinance No. 00-01-07B

CHAPTER 12-3 VALIDITY AND ENFORCEABILITY OF ARBITRATION AGREEMENTS

Section 12-3.10 Jurisdiction of the Tribal Court.

12-3.10.010 The Tribal Court shall have the jurisdiction and authority, upon the filing of a complaint by any party to an agreement containing an arbitration clause, to:

- (A) determine the validity of the underlying contract containing the arbitration provision;
- (B) determine whether the issues that the party or parties wish to resolve through arbitration proceedings are arbitrable or covered by the arbitration provision;
- (C) enjoin the parties from proceeding to arbitration if the Court determines that the underlying contract containing the arbitration provision is not valid or that the issues that the parties wish to resolve through arbitration are not arbitrable or covered by the arbitration provision;
- (D) order the parties to engage in arbitration if the Court determines that an agreement to arbitrate is valid or that the issues the parties seek to resolve through arbitration are within the scope of the arbitration provision contained in the agreement;
- (E) stay proceedings initiated in the Tribal Court, if the Court determines that the issues raised in the pending action are the subject of the arbitration agreement or arbitration provision contained in the agreement;
- (F) vacate or correct an award entered by an arbitrator or arbitrators under an agreement containing an arbitration provision in accordance with Sections 12-3.90 and 12-3.100 of this Chapter; and
- (G) confirm and enforce a valid arbitration award in accordance with Section 12-3.120 of this Chapter. If the Court determines that there are other issues between the parties which are not subject to arbitration and which are the subject of a pending action between the parties and that a determination of such issues may make the arbitration unnecessary, the Court may delay its order to arbitrate until the determination of such other issues or until such earlier time that the Court specifies.

12-3.10.020 If the Court determines that a party to the arbitration is also a party to litigation in a pending court action or special proceeding with a third party, the Court may:

- (A) refuse to enforce the arbitration agreement and may order intervention or joinder of all parties in a single action or special proceeding;
- (B) order an intervention or a joinder as to all or only certain issues;
- (C) order arbitration among the parties who have agreed to arbitration and the stay the pending court action or special proceeding pending the outcome of the arbitration proceeding; or

(D) may stay arbitration pending the outcome of the court action or special proceeding.

Section 12-3.20 Restrain and Enjoin Arbitration Proceedings.

If the Court determines that it has jurisdiction over the parties, the Court may order the parties or either of them to cease from proceeding with an arbitration, including proceedings conducted by the American Arbitration Association until such time as the Court determines the validity of the agreement containing the arbitration provision, the validity of the arbitration provision, whether the issues which the parties seek to resolve through arbitration are arbitrable or otherwise covered by the arbitration provision or whether the arbitrator(s) has jurisdiction over either one or both of the parties.

If the Court determines that the arbitration provision. contained in the agreement and the agreement are valid and that the issues one or all of the parties seek to resolve by arbitration are arbitrable or otherwise covered by the arbitration clause, the Court shall, upon motion of a party to such action or proceeding, stay the action or proceeding until an arbitration is had in accordance with any order entered by the Court to arbitrate or until such earlier time that the Court specifies.

Section 12-3.30 Appointment of Arbitrator. If the arbitration agreement provides a method of appointing an arbitrator, such method shall be followed. If the arbitration agreement does not provide a method for appointing an arbitrator, the parties to the agreement who seek arbitration and against whom arbitration is sought may agree on the method of appointing an arbitrator and that method shall be followed. In the absence of an agreed method, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails to act and a successor has not been appointed, the Court, upon the filing of a verified complaint of a party to the arbitration agreement, shall appoint the arbitrator. The Court shall nominate five persons from lists of persons supplied jointly by the parties to the arbitration or obtained from a governmental agency concerned with arbitration or private disinterested association concerned with arbitration. The parties to the agreement who seek arbitration and against whom arbitration is sought may, within five days of receipt of notice of such nominees from the Court jointly select the arbitrator whether or not such arbitrator is among the nominees. If such parties fail to select an arbitrator within the five day period, the Court shall appoint the arbitrator from the nominees.

Section 12-3.40 Confirmation Correction or Vacation of Award. Any party to an arbitration in which an award has been made may, upon the filing of a verified complaint, petition the Court to confirm, correct, or vacate an arbitration award. The Complaint shall name as defendants all parties to the arbitration and may name as defendants any of the parties bound by the arbitration award. The defendants named in the Complaint may file an answer to the complaint and may request the Court to dismiss the complaint or to confirm, correct, or vacate the award.

Section 12-3.50 Contents of Answer to Complaint. The complaint filed under this Chapter shall: (1) set forth the substance of or have attached a copy of the agreement to arbitrate unless the plaintiff denies the existence of such an agreement; (2) set forth the names of the

arbitrators; and (3) set forth or have attached as a copy the award and the written opinion of the arbitrators, if any.

Section 12-3.60 Contents of Answer to Complaint. Unless a copy thereof is set forth in or attached to the Complaint, an answer to a complaint filed under this Chapter shall: (1) set forth the substance of or have attached a copy of the agreement to arbitrate unless the defendant denies the existence of such an agreement; (2) set forth the names of the arbitrators; and (3) set forth or have attached a copy of the award and the written opinion of the arbitrators, if any.

Section 12-3.70 Grounds for Relief. A complaint to correct or vacate an award, or a response requesting such relief shall set forth the ground(s) upon which the request for such relief is based.

Section 12-3.80 Powers of the Court. If a complaint or answer filed under this Chapter is duly served and filed with the Court, the Court shall confirm the award as made, whether rendered on or off the Reservation, unless, in accordance with this Chapter, it corrects the award and confirms it as corrected, vacates the award, or dismisses the proceedings.

Section 12-3.90 Grounds to Vacate Award. The Court shall vacate the award if the Court determines that: (1) the award was procured by corruption, fraud, or other undue means; (2) there was corruption by any of the arbitrators; (3) the rights of such party was substantially prejudiced by misconduct of a neutral arbitrator; (4) the arbitrators exceeded their powers and the award cannot be corrected without affecting the merits of the decision upon the controversy submitted; (5) the rights of such party were substantially prejudiced by the refusal of the arbitrators to postpone the hearing upon sufficient cause being shown therefore or by the refusal of the arbitrators to hear evidence material to the controversy or by other conduct of the arbitrators contrary to the provisions of this title; and (6) the decision of the arbitrator is clearly contrary to federal or tribal law.

Section 12-3.100 Grounds to Correct Award. The Court, unless it vacates the order pursuant to Section 17.03.090 of this Chapter, shall correct the award and confirm it as corrected when the Court determines that: (1) there was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award; (2) the arbitrators exceeded their powers but the award may be corrected without affecting the merits of the decision upon the controversy submitted; (3) the award is imperfect in a manner of form, not affecting the merits of the controversy; and (4) the decision of the arbitrators is clearly contrary to federal or tribal law but the award may be corrected without affecting the merits of the decision upon the controversy submitted.

Section 12-3.110 Dismissal of Proceeding. The Court shall dismiss any proceedings brought under this Chapter as to any person named as a defendant if the Court determines that such person was not bound by the arbitration award and was not a party to the arbitration. In the alternative, the Court, if requested, may enter a judgment enjoining the person seeking to compel arbitration from proceeding with arbitration on the grounds that the Court has determined that the person named as a defendant who the plaintiff seeks to compel to participate in arbitration, is not bound by the arbitration award.

Section 12-3.120 Entry of Judgment. If an award is confirmed, Judgment shall be entered in conformity therewith. The Judgment so entered shall have the same force and effect as, and is subject to all the provisions of law relating to, a Judgment in a civil action; and it may be enforced like any other judgment of the Court in which it is entered.

Section 12-3.130 Force and Effect of Unconfirmed or Vacated Award. An award that has not been confirmed or vacated has the same force and effect as a contract in writing, if valid, between the parties to the arbitration.

Section 12-3.140 Statute of Limitations Period. Any action to confirm an award shall be served and filed not later than two years after the date of service of a signed copy of the award on the parties to the arbitration. A complaint to vacate an award or to correct an award shall be served and filed not later than 90 days after the date of service of the signed copy of the award on the plaintiff.

Section 12-3.150 Court Proceedings Under This Chapter. A proceeding brought under this Chapter in the Tribal Court, except as otherwise provided in this Chapter, shall be governed by the Court's Rules of Pleading, Practice and Procedure.

Section 12-3.160 General Provisions

12-3.160.010 Severability. If any part of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of any such part or provision to the other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

12-3.160.020 Effective Date. This Ordinance shall become effective on the date that it is adopted by the Tribal Council and shall govern all arbitration proceedings pending as of the effective date of this Ordinance or filed after the effective date of this Ordinance.

History: Ordinance No. 02-17-07.

CHAPTER 12-4 TRIBAL CLAIMS ORDINANCE

Section 12-4.10 Presentation of Claims as Prerequisite to Filing Suit. All claims against the Tribe or any of its business enterprises for money or damages shall be presented to the Tribal Council and acted upon as a prerequisite to suit thereon as further provided in this Ordinance. All such claims shall be presented as required by this Ordinance and within the time periods specified herein.

Section 12-4.20 Claims Subject to Filing Requirements. The claims subject to the filing requirements under this Section shall include, but not be limited to, any and all claims for money or damages; any and all claims by Tribal employees for fees, salaries, wages, mileage, or other expenses and allowances, and any and all claims by any federal, state, or local public entity. The provisions of this Section shall apply to any and all claims whether they relate to events, transactions, or occurrences that took place prior to or after the effective date of this Ordinance.

Section 12-4.30 Contents of Claim. A claim shall be presented by the claimant or by a person acting on the claimant's behalf and shall include the following: (1) the name and address of the claimant; (2) the address to which the claimant desires notices to be sent; (3) the date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted; (4) a general description of the indebtedness, obligation, injury, damage, or loss incurred so far as it may be known at the time of presentation of the claim; (5) the name or names of the Tribal employee or employees causing the injury, damage, or loss, if known; and (6) the amount claimed as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Section 12-4.40 Signature of Claimant. The claim shall be signed by the claimant or a person on the claimant's behalf. Claims against the Tribe or any of its business entities for supplies, materials, equipment, or services need not be signed by the claimant or on the claimant's behalf if presented on a bill-head or invoice regularly used in the conduct of business of the claimant.

Section 12-4.50 Forms. The Tribal Council may provide forms specifying the information to be contained in claims against the Tribe or any of its business enterprises. If the Tribal Council provides forms pursuant to this Section, the claimant need not use such form if he/she presents his/her claim in conformity with Sections 1.030 and 1.040. A claim presented on a form provided pursuant to this Section shall be deemed to be in conformity with Sections 1.030 and 1.040, if the claim complies substantially with the requirements of the form or with the requirements of said Sections.

Section 12-4.60 Amendment of Claim. A claim may be amended at any time before the expiration of the period designated in Section 1.090 or before final action thereon is taken by the Tribal Council, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.

Section 12-4.70 Notice of Insufficiency of Claim. If, in the sole discretion of the Tribal Council or a person designated by the Tribal Council to evaluate the claim, a claim as presented fails to comply substantially with the requirements of this Ordinance or the requirements of the form provided under this Ordinance, the Tribal Council or such designated person may, at any time within twenty (20) days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. Such notice shall be given in the manner prescribed by this Ordinance. Where such notice is given, the claimant shall have 15 days to amend the claim. The Tribal Council may not take action on the claim during that time.

Section 12-4.80 Effect of Failure or Refusal to Amend. If, within 15 days of the giving of notice of the insufficiency of his or her claim, the claimant fails or refuses to amend his or her claim, the claim shall be deemed denied.

Section 12-4.90 Failure to Give Notice of insufficiency Waiver of Defense Based on Defect or Omission. Any defense based on the insufficiency of a claim resulting from a defect or omission in the claim as presented is waived by the failure on the part of the Tribe to give notice of the insufficiency as provided in Section 1.070, except that, no notice need be given and no waiver shall result when the claim, as presented, fails to state either an address to which the claimant desires notice to be sent or an address of the claimant.

Section 12-4.100 Time Limits for Presentation of Claims. A claim relating to a cause of action for death or for injury to a person or to personal property shall be presented as provided for in this Ordinance not later than the ninetieth (90th) day after the accrual of the cause of action. A claim relating to any other cause of action shall be presented, as provided in this Ordinance not later than one hundred eighty (180) days after the accrual of the cause of action.

Section 12-4.110 Grant or Denial of Claim by Tribal Council.

12-4.110.010 The Tribal Council shall grant or deny any claim within sixty (60) days after the claim is presented to the Tribal Council. The claimant and the Tribal Council may extend the period within which the Tribal Council is required to act on the claim by written agreement entered into before the expiration of such period.

12-4.110.020 If the Tribal Council fails or refuses to act on the claim within the time prescribed by this Section, the claim shall be deemed to have been denied on the sixtieth day or, if the period within which the Tribal Council is required is extended by agreement pursuant to this Section, on the last day of the period specified in such agreement.

Section 12-4.120 Notice of Denial of Claim.

12-4.120.010 Written notice of the rejection of the claim or the Tribal Council's inaction on the claim, which is deemed a rejection of the claim by operation of law under this Ordinance, shall be given in the manner provided in the Chapter. Such notice shall be in substantially the following form:

“Notice is hereby given that the claim which you presented to the Tribal Council of the Hopland Band of Pomo Indians on {indicate date} was [indicate whether rejected, allowed, allowed in the amount of

\$ _____ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable] on [indicate date of action or rejection by operation of law).”

12-4.120.020 If the claim is rejection in whole or in part, the notice required shall include a warning in substantially the following, form:

“WARNING”

If your claim was based upon death or injury to a person or personal property, you have ninety (90) days from the date this notice was personally delivered or deposited in the mail to file a court action on this claim, otherwise, you have one hundred eighty (180) days from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.”

Section 12-4.130 Mailing or Service of Notice. The notice required by shall be deemed given when it is either:

12-4.130.010 personally delivered to the claimant or the claimant’s representative as specified in the claim or

12-4.130.020 when deposited in the United States mail addressed to the claimant or the claimant’s representative as specified in the claim, first class postage prepaid.

Section 12-4.140 Re-examination of Rejected Claim.

The Tribal Council may, in its discretion, within the time described by Section 1.090 for commencing a court action on the claim, re- examine a previously presented claim in order to consider a settlement of the claim.

Section 12-4.150 General Provisions

12-4.150.010 Sovereign Immunity. Nothing in this Ordinance shall be deemed to waive the sovereign immunity of the Hopland Band of Pomo Indians or any of its enterprises, officers, agents, or employees.

12-4.150.020 Effective Date, Publication. This Ordinance shall take effect immediately after its adoption.

History: Ordinance No.00-01-07A.

CHAPTER 12-5 SMALL CLAIMS

Section 12-5.10 Definitions. For the purpose of this Chapter, the following words and phrases shall have the following meanings:

- (a) “*Big Talker*” shall mean a person 18 years of age or older authorized to speak on behalf of a plaintiff or defendant at a hearing held under Section 12.590 of this Chapter.
- (b) “*Court Clerk*” or “*Clerk*” shall mean the Clerk of the Tribal Court.
- (c) “*Defendant*” shall mean the person or persons against whom the Plaintiff has (filed suit).
- (d) “*Judge*” or “*Tribal Judge*” shall mean any Judge of the Tribal Court.
- (e) “*Reservation*” shall mean all lands within the exterior boundaries of the Reservation or any land held in trust for the Tribe or its members by the United States.
- (f) “*Small Claims*” shall mean a claim brought by an individual of \$5,000 or less and a claim brought by an entity of \$5,000 or less.
- (g) “*Tribal Court*” or “*Court*” shall mean the Tribal Court of the Tribe.
- (h) “*Tribal Council*” or “*Council*” shall mean the Tribal Council of the Tribe.
- (i) “*Tribe*” shall mean the Hopland Band of Pomo Indians.
- (j) “*Plaintiff*” shall mean the person or persons filing the claim

Section 12-5.20 Requirement for a Claim. A claim may be filed with the Tribal Court only when the following conditions are met:

12-5.20.010 The claim is for the recovery of money and/or specific personal property, or performance of a contract;

12-5.20.020 The total amount of the claim, including goods or services, is Five Thousand Dollars (\$5,000) or less;

12-5.20.030 One party must be a Tribal member or a resident of the Reservation. Any plaintiff who is not a Tribal member or a resident must waive the right to contest the Tribal Court’s jurisdiction and consent to the jurisdiction of the court.

12-5.20.040 The possession of personal property must be or the injury must have occurred within the Reservation, or, for a contract claim, the contract must have been executed or to have been performed within the Reservation.

12-5.20.050 A good faith effort was made to collect the claim.

12-5.20.060 The plaintiff has read the Small Claims Court Brochure.

Section 12-5.30 Time Limit on Action. No claim may be filed more than one (1) year after the date that the plaintiff knew or should have known of the damage, injury, or breach upon which the claim is based.

Section 12-5.40 Statement of What Can Be Recovered.

12-5.40.010 The plaintiff may only receive one of the following, after a final judgment has been entered:

- (A) Money for the value of the claim;
- (B) The objects in controversy and the value of any loss/damage to the objects;
- (C) Work to be performed under a contract in dispute, and
- (D) In kind payment, either in goods or services.

12-5.40.020 Interest can also be recovered on the value of the claim.

Section 12-5.50 Filing a Claim: Content and Form. A case shall begin upon filing with the Court Clerk a verified complaint in the form that the Court has prescribed. The plaintiff shall sign the complaint and verify under oath that as of the date of its filing each requirement of Section 12-5.40 has been met. The complaint shall contain the name and mailing address of the plaintiff and of the defendant, followed by a simple statement of the claim. If the claim is based upon a breach of a written contract, the plaintiff shall attach a copy of the contract to the complaint. This statement shall include the amount of the claim and the date the actions allegedly occurred. With the complaint the plaintiff shall include its or their affidavit stating that they meet all of the requirements in Section 12-5.40 of this Chapter and the date that the damage or injury upon which the claim is based occurred.

Section 12-5.60 Notice: Content: Service. Upon the filing of a complaint, the Court Clerk shall issue a notice in the form prescribed by the Court, directed at the defendant, and shall contain a copy of the complaint. The Court shall serve the notice and complaint upon the defendant by certified mail at the defendant's last known address. The envelope shall be marked "Deliver to Addressee Only" and "Return Receipt Requested," and the date on the return slip will serve as the date upon which the notice and complaint were served on the defendant. If the defendant refuses to sign the certified mail receipt, the plaintiff will have to have the defendant personally served in accordance with the Court's Rules of Pleading, Practice and Procedure.

Section 12-5.70 Defendant's Rights and Liabilities. Within thirty (30) days after the defendant was served with the notice and the complaint, the defendant must answer and either admit or deny each of the allegations contained in the complaint on the form approved by the Court for that purpose, by filing an admission or denial with the Court.

12-5.70.010 If the defendant admits all of the allegations in the complaint, the defendant may settle by paying the plaintiff the amount of the filing fees and service expenses paid by the plaintiff, plus:

- (A) Paying the amount of the claim and mailing or providing proof of such payment to the Court.)

- (B) Delivering the property in dispute to the plaintiff and, if applicable, an amount of money equaling the value of the loss or damage to the property, and mailing or providing proof of delivery to the Court; or
- (C) Completing performance of the promised service(s) and mailing or providing proof of performance to the Court.
- (D) If the case is settled under this Section 12.5.70.010 the Court shall upon proof that the parties have settled the case, dismiss the complaint.

12-5.70.020 If the defendant denies any or all of the allegations in the complaint the matter will be set for a hearing.

Section 12-5.80 Counterclaims. A defendant may make a counterclaim, on any claim that the defendant may have against the plaintiff and that arises out of the same transaction or occurrence that is the subject matter of the complaint filed by the plaintiff. The counterclaim must be filed with the Tribal Court Clerk on a form approved by the Court for that purpose within thirty (30) days after service of the complaint filed by the plaintiff. The Court Clerk will then serve the plaintiff with the counterclaim by certified mail at the plaintiffs last known address. The defendant is limited to recovery of money, goods, or services, as set forth in Section 12-5.40.

Section 12-5.90 Hearing. The Court Clerk shall mail to the parties notice of the hearing, In the notice of the hearing, the Court Clerk shall instruct the parties that they need to bring witnesses, documents, and other evidence pertinent to the controversy. If a counterclaim was filed by the defendant, the notice of hearing shall be accompanied by such counterclaim. No formal pleading other than the complaint, counter-claim or answer shall be necessary. The hearing will be informal. Only the parties, their witnesses and Big Talkers of a party will be allowed to address the court.

12-5.90.010 No Attorneys. Notwithstanding any provisions of Tribal law to the contrary, attorneys are not permitted to represent a party in a small claims court case. A party may be represented by a Big Talker in a small claims court case provided the Big Talker is not an attorney.

12-5.90.020 Time Extension. If one of the two parties wishes to extend the time, in order to make formal appearances to the Court, the party must file a written request with the Court five (5) days prior to the hearing, The requested extension can be no longer than thirty (30) days. The Court may only grant one extension per party.

Section 12-5.100 Default. If the defendant fails to pay the claim, or show up for the hearing, upon written request from the plaintiff, the Clerk shall enter a judgment against the defendant for the relief claimed plus the amount of the small claims filing fees and service expenses paid by the plaintiff. If the plaintiff fails to show up for the hearing, upon written request from the defendant, the Clerk shall dismiss the case, or if a counterclaim has been filed, enter a judgment for the amount of the counterclaim, plus fees and service expenses paid by the defendant.

Section 12-5.110 Final Judgment as Final Decree. When entered, the final judgment shall document a final decree of the rights and obligations of both parties regarding the claims and counterclaims made by the plaintiff and the defendant the judgment will remain valid for ten years. The Court shall award costs of suit and post judgment interest.

12-5.110.010 Action/Petition to Set Aside Final Judgment.

(A) A final judgment entered shall not influence nor bar the rights of either party to petition the Court to set aside or amend the final judgment for fraud, duress, accident, mistake, or other grounds recognized as reasonable under Tribal law. Provided the motion to set aside or amend the judgment is filed with the Court within one hundred twenty (120) days from the date of entry of the judgment.

(B) The Court may retain jurisdiction of a case for one (1) year following the entry of final judgment in all matters.

Section 12-5.120 Applicable Law. The Court, in resolving claims under this Chapter, shall apply the law of the Tribe first, the law of other tribes second, federal law third and California law last, except to the extent that federal or state law governs.

Section 12-5.130 Brochure Describing Proceedings Content, Form and Distribution.

The Court shall develop and print a brochure describing the requirements, nature and effect of the proceedings. The brochure shall be distributed by the Court and shall state in clear English the following:

12-5.130.010 A short summary of the provisions and procedures established by this Chapter.

12-5.130.020 A statement in boldface type that with the entry of a final judgment all rights and obligations of both parties, including property and monetary gains, will be permanently ended without right of appeal, except that either person may petition the Court to set aside the final judgment for fraud, duress, accident, mistake, or other grounds recognized under Tribal law,

12-5.130.030 A summary of the procedures for enforcing a Judgment of the Tribal Court off of the Reservation in State Court.

12-5.130.040 A list of the items or services that a party can receive if the Judge rules in favor of that party.

Section 12-5.140 Fees. The Court shall collect a fee from the plaintiff for filing a complaint and a fee from the defendant if a counterclaim is filed. These fees will cover the cost of the Courts time, the distribution of the brochure, and other costs the Court may incur in processing the case. The amount of the fees shall be set by the Chief Judge in consultation with the Tribal Council.

Section 12-5.150 Fiscal Office Authority. This Chapter shall not be construed to reduce the authority of the Tribe's Fiscal Office to deduct sums owed to the Tribe from paychecks and other payments for payments.

Section 12-5.160 General Provisions

12-5.160.010 Sovereign Immunity. This Chapter shall not waive the sovereign immunity of the Tribe, except as to counterclaims against the Tribe when the Tribe is a plaintiff in a case brought under this Chapter and then only as a set-off against any amount determined by the court due to the Tribe.

12-5.160.020 Repeal. All prior Ordinances or provisions of any previously enacted ordinances of the Tribe that are inconsistent with this Amendment to this Ordinance are hereby repealed.

12-5.160.030 Effective Date. This Amendment to the Ordinance shall be effective upon its passage by the Tribal Counsel.

12-5.160.040 Severability. Any portion of this Amendment to the Ordinance that is determined by a court of competent jurisdiction to be invalid shall not affect, impair, or invalidate any other section, provision, or portion of this Ordinance or this Amendment to it.

History: Ordinance No. 02-08-28B

CHAPTER 12-6 NAME CHANGE

Section 12-6.10 Definitions. For the purpose of this Chapter, the following words and phrases shall have the following meanings:

- (a) “Tribal Court” shall mean the Tribal Court of the Tribe unless otherwise specifically indicated.
- (b) “Tribal Member” shall mean any enrolled member of the Tribe.
- (c) “Tribe” shall mean Hopland Band of Pomo Indians.
- (d) “Applicant” shall mean any person applying to the Tribal Court for a change of name.
- (e) “Court Order” shall mean a written and signed document from the Judge of the Tribal Court granting either a name change or birth certification.
- (f) “Enrollment Committee” shall mean the Enrollment Committee of the Tribe.
- (g) “Resident” shall mean any person residing on the Tribe’s Hopland Indian Reservation (“Reservation”), including any land owned by the United States of America in trust for the Tribe.

Section 12-6.20 Jurisdiction. Any Tribal member or resident of the Reservation may apply to the Tribal Court for a Change of Name for themselves or their child(ren). The Court shall grant the application if the requirements of this Chapter are met.

Section 12-6.30 Petition and Contents of Petition. All applications for Change of Name must be made to the Tribal Court by petition signed by the applicant.

12-6.30.010 If the petition is for a person under eighteen (18) years of age, it must be signed by at least one (1) of the parents or by the legal guardian if the parents are deceased or have been deprived of custody by a court of competent jurisdiction.

(A) The petition shall include the following:

- (1) *place of birth and residence,*
- (2) *present name,*
- (3) *name proposed, and*
- (4) *reason for the change of name.*

(B) If neither parent is living, the petition shall also name the nearest known relatives of the first degree and their place of residence. If the person is under eighteen (18) years of age, and the petition is signed by only one parent, it must include the address, if known, of the other parent. The petition shall also state whether the person has petitioned and been granted a change of name by the Tribal Court or any other court within the past four (4) years.

12-6.30.020 At the time of filing, any Tribal member or Resident over eighteen (18) years of age shall provide the Clerk of the Court with at least one of the following in order to verify their age:

- (A) certified copy of a birth certificate;
- (B) valid driver's license;
- (C) unexpired passport;
- (D) certified copy of a baptismal certificate; or
- (E) Tribal Identification card; or, if none of the above is available,
- (F) an affidavit witnessed by the Enrollment Committee. Tribal enrollment shall be verified by the Enrollment Committee.

Section 12-6.40 Service of Petition. The Clerk of the Court shall direct the applicant to serve by first class mail a copy of the Notice of Name Change on all creditors and any former spouse to whom an obligation exists under a Decree of Divorce, within twenty (20) days.

12-6.40.010 Additionally, in the case of a minor, the applicant will, within thirty (30) days of the filing of the application, provide written notice to the child's parents, and legal guardian, if any.

12-6.40.020 Proof of service by mail shall be filed with the Court.

Section 12-6.50 Order Granting Petition.

12-6.50.010 After the filing of the petition, proof of service and verification of the age of the applicant, the Tribal Court shall issue an Order granting the request for a Change of Name unless the notice appears faulty or an objection is filed.

The Clerk of the Court shall cause the Order to be published in the next edition of the Tribal Newsletter and provide a certified copy of the Order to the Office of the Secretary of State of the State of California. If the applicant was born in a state other than California, the Clerk of the Court shall provide a certified copy of the Order to the Registrar of Vital Statistics in the state in which the applicant was born.

Section 12-6.60 Notice to Enrollment Office. Upon issuance of the Order, the Clerk of the Court shall submit a certified copy to the Tribal Enrollment Committee to be placed in the appropriate Tribal member's file. The Enrollment Committee shall change the name on the file to the new name of the Tribal member. The Tribal member shall surrender all old Tribal identification cards to the Enrollment Committee and provide the Court with written proof to the satisfaction of the Court that the old cards have been surrendered within thirty (30) days of the date of issuance of the Order. The Enrollment Committee shall then issue new Tribal Identification cards showing the new name of the Tribal member as stated in the Order.

Section 12-6.70 Faulty Notices. The Tribal Court may order any correction in a Notice of Proposed Change of Name and any addition to a list of creditors to be notified that it may deem necessary. If the Court has reason to believe that any creditor has not been notified, it may order the applicant to file a consumer credit report with the Court at the applicant's expense. In the event the Tribal Court orders corrections or additions, the notice period shall begin upon the applicant's sending to the Court copies of the corrected notice or proof of service.

Section 12-6.80 Minors Order to Show Cause. When a petition is filed on behalf of a minor, the Court shall issue an Order reciting the filing of the petition, the name of the person for whom the petition was filed and the proposed name. The Order shall direct any parent, guardian or relative of the first degree interested in the matter to appear before the Court, at a time and place specified not less than four (4) nor more than eight (8) weeks from the date of the Order, to show cause why the petition for Change of Name should not be granted. If the parents are deceased, or have not consented to the Change of Name, the person shall cause a copy of the Order to Show Cause to be published in the Tribal Newsletter and/or such other newspaper of general circulation as the Court shall prescribe. Proof must be made to the satisfaction of the Court of such publication at the time of the hearing.

Section 12-6.90 Hearing. A petition filed on behalf of a minor shall be heard at such time as the Court may set. Objections may be filed by any interested person specified in section 12-6.80. At the hearing, which shall be closed to the public, the Court may examine under oath the minor child, if the child, in the discretion of the Judge, is of suitable age. The Court may exclude from any hearing with the child, all other persons except a representative of the parents or legal guardian if it finds that to do so would be in the best interests of the child. The Court shall then issue an Order Changing the Name or dismissing the petition, as deemed just and proper based on evidence presented. In all cases, the Court shall act in the best interests of the minor.

Section 12-6.100 Automatic Name Change. An adult Tribal member or resident may change their married name back to their birth name at any time without applying to the Tribal Court or providing notice to creditors and former spouse.

Section 12-6.110 Frequency of Name Changes. The Tribal Court shall grant no more than one (1) Change of Name in any four year period to any individual.

Section 12-6.120 Fees. The Tribal Court shall establish fees for obtaining a Change of Name in consultation with the Tribal Council.

Section 12-6.130 General Provisions

12-6.130.010 Repeal. All prior Ordinances or provisions of any previously enacted ordinances of the Tribe that are inconsistent with this Amendment to this Ordinance are hereby repealed.

12-6.130.020 Effective Date. This Amendment to the Ordinance shall be effective upon its passage by the Tribal Council.

12-6.130.030 Severability. Any portion of this Amendment to the Ordinance that is determined by a court of competent jurisdiction to be invalid shall not affect, impair, or invalidate any other section, provision, or portion of this Ordinance or this Amendment to it.

History: Ordinance No. 07-11-26.

Section 12-7.10 Purpose. The purpose of this Ordinance is to establish a systematic and uniform procedure for the garnishment of wages of employees of the Tribe or a tribal entity pursuant to orders of the Hopland Tribal Court. This Ordinance shall apply to a Tribal Court order for garnishment arising out of original proceedings in the Tribal Court as well as to Tribal Court orders resulting from the recognition of foreign judgments of judgment creditors. All Tribal Court orders for garnishment shall be made in a fair and fiscally responsible manner. This Ordinance does not prohibit judgment debtors and judgment creditors from reaching alternative agreements or settlements of their claims, nor does it alter or diminish the rights of the Hopland Tribe to collect debts owed to the Tribe or its entities.

Section 12-7.20 Definitions.

- (a) “*Council*” means the Hopland Band of Pomo Indians Tribal Council.
- (b) “*Creditor*” means a person to whom a debt is owing by another person who is the debtor.
- (c) “*Debt*” means a sum of money due by certain and express agreement, including a specified sum of money owing to one person from another, including not only obligations of a debtor to pay, but a right of a creditor to enforce and receive such payment.
- (d) “*Debtor*” means a person who owes a debt to another and may be compelled to pay a claim or demand by a creditor.
- (e) “*Disposable Wages*” means that part of an individual’s wages left after deduction of federal tax withholding and any other amounts required by applicable law to be withheld by the employer.
- (f) “*Employee*” means a person employed by or in the service of the Hopland Tribe or its tribal entities under any contract of hire, express or implied, oral or written, where the Tribe has the power or right to control and direct such individual in return for which such individual receives a salary or wages. For purposes of this Ordinance, “employee” shall also include Council members.
- (g) “*Employer*” means the Hopland Tribe or one of its tribal entities.
- (h) “*Foreign Judgments*” means a final judgment rendered by the Courts of the State of California, any other State courts within the United States, or any federal or Tribal court which is politically and judicially distinct from the Hopland Tribal Court.
- (i) “*Garnishment*” means the method to obtain satisfaction of a judgment by reaching the unpaid past or future wages of an employee of the Hopland Tribe or a tribal entity. Garnishment shall not include voluntary wage assignments by employees of the Hopland Tribe.
- (j) “*Judgment Creditor*” means a person in whose favor a money judgment has been entered by a Court of law and who has not yet been paid.
- (k) “*Judgment Debtor*” means a person against whom judgment has been recovered, and which remains unsatisfied.
- (l) “*Tribal Entity*” means the Hopland Tribe, its departments, programs, entities and subdivisions.

(m)“*Wages*” means compensation paid or payable for personal services whether denominated as wages, salary, commission, bonus or otherwise. For purposes of this Ordinance, “otherwise” includes Council and Committee honoraria.

Section 12-7.30 Applicability. This Ordinance applies to any Tribal Court order for garnishment arising out of original Proceedings in the Tribal Court as well as to Tribal Court Orders resulting from the recognition of foreign judgments, orders of decrees of judgment creditors against an employee of the Hopland Tribe or entity that is final and enforceable where rendered.

Section 12-7.40 Recognition and Enforcement. A foreign judgment against an employee of the Hopland Tribe or a tribal entity meeting the requirements of section 6 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money.

Section 12-7.50 Actions in the Hopland Tribal Court. A creditor may seek appropriate relief in the Hopland Tribal Court against a debtor pursuant to the Rules of Pleading, Practice and Procedure of the Tribal Court of the Hopland Band of Pomo Indians enacted on June 20, 2002, including any future amendments thereto and in conformance with any forms promulgated by the Tribal Court.

Section 12-7.60 Enforcement of Foreign Court Orders. Judgments or Decrees.

12-7.60.010 The Hopland Band Tribal Court, as a matter of comity, will strive to recognize, implement and enforce the final orders, judgments and decrees of foreign courts against an employee of the Hopland Band Tribe or of a tribal entity, unless the Hopland Tribal Court finds that the foreign court that rendered the order, judgment or decree:

- (A) Lacked jurisdiction over a party or the subject matter;
- (B) Denied due process as provided by the Indian Civil Rights Act of 1968; or,
- (C) Does not reciprocally provide for recognition and implementation of orders judgments and decrees of the Hopland Tribal Court.

12-7.60.020 The Hopland Tribal Court may, in its own discretion, refuse to recognize a foreign judgment, order or decree where:

- (A) The judgment was obtained by fraud;
- (B) The cause of action or defense on which the judgment is based is repugnant to the public policy of the Hopland Tribe or would be likely to harm the culture, traditions, or sovereignty of the Tribe;
- (C) The proceeding of the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;
- (D) The judgment conflicts with another final judgment;

- (E) The judgment, order or decree is being contested or appealed in another jurisdiction.

Section 12-7.70 Personal Jurisdiction. A foreign judgment, order or decree against an employee of the Hopland Tribe or tribal entity shall not be refused recognition for lack of personal jurisdiction if:

- (A) The defendant was served personally in the foreign state;
- (B) The defendant personally appeared in the proceedings, other than for the Purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;
- (C) The defendant had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved prior to the commencement of the proceedings.

Section 12-7.80 Notice and Opportunity to Be Heard. The judgment creditor shall request a hearing pursuant to the Pleading, Practice and Procedure Rules of the Hopland Tribal Court and shall also provide notice of the action to the judgment debtor. The debtor shall be given the opportunity to be heard regarding recognition of the foreign court order, judgment or decree.

Section 12-7.90 Garnishment of Wages for Satisfaction of Judgment.

12-7.90.010 In a civil action for garnishment filed by a judgment creditor, the Hopland Tribal Court may order garnishment of unpaid past or future wages of the judgment debtor for satisfaction of the judgment. No garnishment action shall be filed in the Hopland Tribal Court unless the judgment remains unsatisfied sixty (60) days after such judgment was entered- In an action for garnishment, the judgment debtor shall be named as a defendant. In no case shall the Hopland Tribe, any tribal entity, the Tribal Council, or officials of the Hopland Tribe be named as Defendants, except where an individual is the debtor or judgment debtor for a personal debt. Nothing contained herein shall prohibit the recognition of judgments against individual debtors or judgment debtors for personal debts merely because of their position with the Hopland Tribe.

12-7.90.020 The maximum amount of wages subject to garnishment in any one pay period shall be twenty five percent (25%) of the judgment debtor's disposable wages for that pay period.

12-7.90.030 A garnishment order recognized by or rendered by the Hopland Tribal Court against an employee of the Hopland Tribe or tribal entity shall lapse when the judgment is satisfied or when the judgment debtor resigns or is dismissed from his or her employment with the Hopland Tribe or tribal entity, provided that if the judgment debtor is rehired by the Hopland Tribe or a tribal entity within ninety (90) days after such resignation or dismissal, the garnishment order shall continue in effect.

12-7.90.040 No employer shall discharge an employee for the reason that a judgment creditor of the employee has garnished or attempted to garnish unpaid earnings of the employee.

Section 12-7.100 Child Support Orders. All child support orders rendered against an employee of the Hopland Band Tribe, or one of its tribal entities, properly issued by a State of Tribal court shall be enforced upon presentation to the Hopland Tribal Court in accordance with the Federal Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B.

Section 12-7.110 Per Capita Payments. The Tribal Council may withhold a per capita payment to a Tribal member if the Tribal Court determines after notice and an opportunity to be heard that the Tribal member (i) owes money to the Tribe or (ii) owes money to a third party pursuant to a valid child support order.

Section 12-7.120 Trust lands Exempt. Any real property or interests in real property held in trust or subject to restrictions against alienation imposed by the United States, or the income from such property, are exempt from execution pursuant to child support orders and garnishment orders by the Hopland Tribal Court.

Section 12-7.130 Dwelling Exempt. Any dwelling, house or mobile home in which the judgment debtor resides or intends to reside and the land on which the structure is located, if the land is held in trust or subject to restrictions against alienation imposed by the United States, are exempt from execution pursuant to child support orders and garnishment order by the Hopland Tribal Court.

Section 12-7.140 Cultural Items Exempt. Any item of religious or cultural significance shall be exempt from execution pursuant to child support orders and garnishment orders by the Hopland Tribal Court.

Section 12-7.150 Administrative Processing Fee. The Tribe reserves the right to assess a reasonable processing fee upon the Judgment Debtor for each pay period that the wages of an employee of the Hopland Tribe or tribal entity are garnished.

Section 12-7.160 Stay in Case of Appeal. If the judgment debtor satisfies the Hopland Tribal Court that an appeal is pending or that she is entitled to and intends to appeal from the foreign judgment, the Tribal Court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the judgment debtor to prosecute the appeal.

12-7.170.010 Severability. If any section, provision, or portion of this Ordinance is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair or invalidate any other section, provision, or portion of this Ordinance.

12-7.170.020 Sovereign Immunity. The Tribe's sovereign immunity shall not be waived or limited in any manner by this Ordinance.

12-7.170.030 Effective Date. Amendment. This Ordinance shall be effective from the date of its approval by the Tribal Council, and may be amended in accordance with Tribal law.

History: Ordinance No. 07-11-26; [12-7.110 amended by 08-05-18]

Note: Ordinance #2 ("Establishing Northern Circle Indian Housing Authority as the Tribal Housing Authority") must be read in conjunction with Resolution #09-14-82.

Hopland Band of Pomo Indians

P. O. Box 610
Hopland, California 95449
707 - 744-1647

RESOLUTION NO. 9-14-82

WHEREAS, the HOPLAND BAND OF POMO INDIANS adopted Tribal Ordinance No. 2 to join NORTHERN CIRCLE INDIAN HOUSING AUTHORITY, and

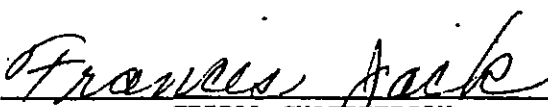
WHEREAS, it has become necessary to amend said ordinance in certain respects, and

NOW, THEREFORE BE IT RESOLVED, by the governing Council of the HOPLAND BAND OF POMO INDIANS as follows:

1. Article III, (definitions), is amended in part to State "Council" means the Hopland Band of Pomo Indians Tribal Council".
2. Article VIII, (Cooperation in connection with projects), section 1(F), is amended to state "the state justice or municipal court (depending on the amount in controversy) in the county where the housing is located shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer. The Tribal Government hereby declares that the powers of said Court shall be vigorously utilized and the Tribal Government will cooperate to the fullest extent possible to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

CERTIFICATION

This is to certify that the foregoing Resolution was duly adopted at a meeting of the HOPLAND BAND OF POMO INDIANS TRIBAL COUNCIL, held on the 14 day of September, 1982, by a vote of 3 ayes, 0 nays and 0 abstaining.



TRIBAL CHAIRPERSON

TRIBAL ORDINANCE
No. 2

Pursuant to the authority vested in the Hopland Band
of Pomo Indians by its Constitution,
and particularly by Article IX, Sections I
(f) thereof, and its authority to provide for the
health, safety, morals and welfare, the Council of the
Hopland Band of Pomo Indians
hereby joins a public body known as the Northern
Circle Indian Housing Authority (here-
inafter referred to as the Authority), and enacts this ordinance
which shall establish the purposes, powers and duties of the
Authority.

In any suit, action or proceedings involving the validity
or enforcement of or relating to any of its contracts, the
Authority shall be conclusively deemed to have become established
and authorized to transact business and exercise its powers upon
proof of the adoption of this ordinance. A copy of the Ordinance
duly certified by the Secretary of the Council shall be
admissible in evidence in any suit, action or proceeding.

ARTICLE I

DECLARATION OF NEED

It is hereby declared:

1. That there exist within the area of the jurisdiction
of this Council insanitary, unsafe and overcrowded dwelling
accommodations; that there is a shortage of decent, safe and
sanitary dwelling accommodations available at rents or prices
which persons of low income can afford; and that such shortage
forces such persons to occupy insanitary, unsafe and overcrowded
dwelling accommodations;

2. That these conditions cause an increase in and spread
of disease and crime and constitute a menace to health, safety,
morals and welfare; and that these conditions necessitate

excessive and disproportionate expenditures of public funds for crime prevention, and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

3. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

4. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of concern to this Council;

5. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment; and

6. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

ARTICLE II

PURPOSES

The Authority shall be organized and operated for the purposes of:

1. Remedying unsafe and insanitary housing conditions that are injurious to the public health, safety and morals;

2. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and

3. Providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

ARTICLE III

DEFINITIONS

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Area of Operation" means all areas within the jurisdiction of this Council.

"Board" means the Board of Commissioners of the Authority.

"Council" means the _____ Council.

"Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

"Homebuyer" means a person(s) who has executed a lease-purchase agreement with the Authority and who has not yet achieved homeownership.

"Housing project" or "project" means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental; sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans, or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the

improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

"Obligations" means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this Ordinance.

"Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

"Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.

ARTICLE IV

BOARD OF COMMISSIONERS

1. (a)² (1) The affairs of the Authority shall be managed by a Board of Commissioners composed of two persons from each Indian Band or Tribal group.

(2) The Board members shall be appointed, and may be re-appointed, by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

(3) A commissioner may be a member or non-member of the Tribe, and may be a member or non-member of the Tribal Council.

(4) No person shall be barred from serving on the Board because he is a tenant or homebuyer in a housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all

of the tenants or homebuyers, even though such matters affect him as well. However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or homebuyer.

(b)³ The term of office shall be four years and staggered. When the Board is first established, one member's term shall be designated to expire in two year(s), another to expire in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. Each member of the Board shall hold office until his successor has been appointed and has qualified.

(c)⁴ The Council shall name one of the Commissioners as Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman, shall preside; and in the absence of both the Chairman and Vice-Chairman, the Secretary shall preside.

(d)⁵ A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.

(e) The Commissioners shall not receive compensation for their service but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

(f)⁶ A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.

(g) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.

(h) The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Council as required by Article VII, Section 1, of this Ordinance.

2. Meetings of the Board shall be held at regular intervals as provided in the By-Laws. Emergency meetings may be held upon 24 hour actual notice and business transacted at such meeting by an Executive Committee composed of five Commissioners appointed each year by the full Board. Not less than a majority of the Executive Committee must concur in any action taken in such emergency meeting.

ARTICLE V

POWERS

1. The Authority shall have perpetual succession in its corporate name.

2. The Council hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this Ordinance and hereby authorizes the Authority to agree by contract to waive any immunity from suit which it might otherwise have; but the Tribe shall not be liable for the debts or obligations of the Authority.

3. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

(a) To adopt and use a corporate seal.

(b) To enter into agreements, contracts and understandings with any governmental agency, Federal, state or local

(including the Council) or with any person, partnership, corporation or Indian Tribe; and to agree to any conditions attached to Federal financial assistance.

(c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal government may have attached to its financial aid to the project.

(d) To obligate itself, in any contract with the Federal government for annual contributions to the Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: Provided, that the contract requires that, as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall reconvey to the Authority and project as then constituted.

(e) To lease property from the tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

(f) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Article VI of this ordinance.

(g) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

(h) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(i) To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvements, extension, alteration or repair of any project or any part thereof.

(j) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance.

(k) To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.

(l) To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.

(m) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to persons of low income.

(n) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

(o) To invest such funds as are not required for immediate disbursement.

(p) To establish and maintain such bank accounts as may be necessary or convenient.

(q) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

(r) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

(s) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

(t) To adopt such bylaws as the Board deems necessary and appropriate.

(4) It is the purpose and intent of this ordinance to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

(5) No ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this ordinance.

ARTICLE VI

OBLIGATIONS

1. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable: (a) exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income or revenues together with a grant from the Federal government in aid of such project; (b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (c) from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

2. Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

3. The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

4. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of obligations and each of them, including all transferees of the obligations from time to time.

5. Obligations shall be issued and sold in the following manner:

(a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

(b) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

(c) The obligations may be sold at public or private sale at not less than par.

(d) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

6. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or

enforceability of any obligations of the Authority or the security thereof, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this ordinance.

7. In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in this ordinance, may:

(a) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenants or rights securing or relating to the obligations.

(c) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

(d) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

(e) Covenant as to what other or additional debts or obligations may be incurred by it.

(f) Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) Provide for the replacement of lost, destroyed or mutilated obligations.

(h) Covenant against extending the time for the payment of its obligations or interest thereon.

(i) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.

(j) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be reised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(k) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposed, and covenant as to the use and disposition of the monies held in such funds.

(l) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.

(m) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

(n) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(o) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(p) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.

(q) Exercise all or any part or combination of the powers granted in this section.

(r) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or

different character.

(s) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.

ARTICLE VII

MISCELLANEOUS

1. The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing (a) a summary of the year's activities, (b) the financial condition of the Authority, (c) the condition of the properties, (d) the number of units and vacancies, (e) any significant problems and accomplishments, (f) plans for the future, and (g) such other information as the Authority or the Council shall deem pertinent.

2. During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioners, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the

Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Article IV, Section 1 (a) (4).

3. Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation, and with all regulations and requirements prescribed from time to time by the Federal Government in connection with such assistance.

4. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

5. The Authority shall not construct or operate any project for profit.

6. The property of the Authority is declared to be public property used for essential public and governmental purpose and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

7. All property including funds acquired or held by the Authority pursuant to this ordinance shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such

property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of the Authority to bring eviction actions in accordance with Article V, Section 3 (1).

ARTICLE VIII

COOPERATION IN CONNECTION WITH PROJECTS

1. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(a) It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.

(b) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

(c) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

(d) It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

(e) The Tribal Government hereby declares that the powers of the Tribal Government shall be vigorously utilized

to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

(f)⁷ The _____ Court shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer. The Tribal Government hereby declares that the powers of said Court shall be vigorously utilized and the Tribal Government will cooperate to the fullest extent possible to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

2. The provisions of this Article shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed, or modified without the consent of the Department of Housing and Urban Development, so long as (a) the project is owned by a public body or governmental agency and is used for low income housing purposes, (b) any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect, or (c) any obligations issued in connection with such project or any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing, including the Federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

ARTICLE IX

APPROVAL BY SECRETARY OF THE INTERIOR

With respect to any financial assistance contract between the Authority and the Federal government, the Authority shall obtain the approval of the Secretary of the Interior or his designee.

APPROVED FOR THE SECRETARY OF
INTERIOR

By LSGD/ Richard H. Burrell

Superintendent

Title

FOOTNOTES

¹Article I may be modified as deemed appropriate.

²Article IV, section 1(a), paragraphs (1), (2), and (3) may be modified. For example, the number of board members may be more or less than five; the appointments may be made by the elected head of the tribal government, rather than the Council; the IHA may be made a department or division of the tribal government; membership on the Board may be limited to those who are members of the tribe, or to those who are members of the Council, or to those who are nonmembers of the Council, or to a certain number of any category.

³Article IV, section 1(b) may be modified to conform to changes in Article IV, section 1(a), and as to the length of the term of membership.

⁴Article IV, section 1(c) may be modified as to the manner of appointment of the Chairman. For example, it may provide for appointment by the Board members or by the elected head of the tribal government. This paragraph may also be modified as to the manner of appointment of the other officials.

⁵Article IV, section 1(d) may be modified but adequate safeguards against arbitrary removal shall be included.

⁶Article IV, section 1(f) may be modified if deemed appropriate, where the full Board consists of more than 5 members.

The name of the appropriate Court must be inserted in ⁷Article VIII, section 1(f) on the basis of your attorney's opinion regarding jurisdiction.

Hopland Band of Pomo Indians

PO Box 610, Hopland, CA 95449

(707) 744-1647 Fax (707) 744-1506

TITLE 13 SECTION 1

ORDINANCE OF THE HOPLAND BAND OF POMO INDIANS AMENDING THE TRIBAL ORDINANCE ESTABLISHING NORTHERN CIRCLE INDIAN HOUSING AUTHORITY AS THE TRIBAL HOUSING AUTHORITY.

FINDINGS

The Tribe finds as follows:

1. The Tribe's reservation is located in Mendocino County, California.
2. The majority of the Tribe's members reside on its reservation and in Mendocino County.
3. A significant number of the Tribe's members also reside in other counties.
4. In order to provide for the housing needs of tribal members it is in the Tribe's best interest to amend the Tribal Housing Authority Ordinance to expand the Tribe's area of operation to include those counties where significant number of tribal members reside. Those counties include: Mendocino, Lake, and Sonoma.

ORDINANCE AMENDMENTS

The Hopland Band of Pomo Indians Tribal Council hereby ordains as follows:

The Tribal Ordinance establishing Northern Circle Indian Housing Authority ("Authority") as the tribal housing authority for the Hopland Band of Pomo Indians ("Housing Authority Ordinance") is hereby amended as follows. Except as expressly amended by this Ordinance all other provisions of the Housing Authority Ordinance remain in full force and effect.

ARTICLE I DECLARATION OF NEED

It is hereby declared:

That there exist on and near the area of the jurisdiction of this Council, including the area within Mendocino County, where the Tribe's reservation is located (area of concern), unsanitary, unsafe, and overcrowded dwelling accommodations where tribal members and other members of federally recognized Indian Tribes live; that there is a shortage of decent, safe and sanitary dwelling accommodations available in the area of concern at rent or prices which persons of low income and afford; that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations; and that no other resources than those provided by Authority area available to assist with providing decent, safe and sanitary dwelling accommodations for such persons.

Sandra Sigala
Tribal Chair

Randolph Feliz
Vice Chair

[yesha Balderama
Secretary

Brian Yopez
Treasurer

ARTICLE III
DECLARATION OF NEED

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context: "Area of Operations" means all areas within the jurisdiction of this Council and all areas within the California counties in which significant numbers of tribal members reside as determined by the Tribal Council from time to time by resolution adopted by the Hopland Tribal Council. "Indian Country" has the meaning provided in 18 U.S.C. Sec.1151. Whenever the Tribal Council enacts or revises such resolution, it shall furnish a copy to the Housing Board of Commissioners.

ARTICLE VII
MISCELLANEOUS

As to action arising in Indian country within the Authority's area of operation, the State of California Court shall have jurisdiction to hear and determine an action for eviction of a Tenant or Homebuyer. As to action arising outside Indian country but within the Authority's area of operation, the courts of the State of California shall have jurisdiction to hear and determine such matter and the laws of the State of California shall apply to transactions involving lands located in such areas.

CERTIFICATION

The undersigned certifies that at a duly constituted meeting of the Hopland Band of Pomo Indians at which a quorum was present, held on March 26, 1999, on the Hopland Reservation, the above resolution was discussed and approved by a vote of:

5 For 0 Against 0 Abstain

ATTEST:


Sandra C. Sigala
Tribal Chair

Date


Iyesha Balderama
Tribal Secretary

3/26/99
Date

**TITLE 13
SECTION 9
ORDINANCE NO. 08-04-08**

**ORDINANCE OF THE TRIBAL COUNCIL OF THE
HOPLAND BAND OF POMO INDIANS AMENDING ARTICLE V, SECTION 2
OF THE TRIBAL HOUSING ORDINANCE.**

The Tribal Council of the Hopland Band of Pomo Indians ("tribe") hereby ordains as follows:

SECTION ONE.

1. The Tribe hereby amends the provisions of Article V, Section 2 of the tribal Housing Ordinance to make absolutely clear that the Northern Circle Indian Housing Authority ("NCIHA") may be sued, only if its Board of Commissioners approves an express waiver of the NCIHA's sovereign immunity from suit with respect to the specific contract, claim or obligation upon which the suit is brought. The Tribe believes that the Ordinance has always included this requirement and that this amendment clarifies existing law.

2. Article V, Section 2 of the Tribe's Housing Ordinance is amended to read as follows:

ARTICLE V

POWERS

2. The Tribe hereby gives its irrevocable consent to allowing the NCIHA to sue and, as further provided in this Article V, Section 2, be sued in its corporate name, upon any claim arising out of its activities under this ordinance. In giving this consent, the Tribe does not intent to waive the NCIHA's sovereign immunity from suit. Rather, the Tribe hereby authorized the Board of Commissioners, and no other officer, employee or agent of the NCIHA, to provide a limited waiver of the NCIHA's sovereign immunity and consent to suit by an express written provision in a contract or other document and to authorize the Board of Commissioners to make any such limited waiver subject to such conditions as the Board of Commissioners deem appropriate. Such approval must be evidenced by a resolution or approved minutes of the Board of Commissioners and shall be strictly construed. The Tribe does not give the NCIHA consent to waive the Tribe's sovereign immunity and the Tribe shall not be liable for the debts or obligations of the NCIHA.

SECTION TWO.

Except as specifically amended by this ordinance, the provisions of the Tribe's Housing Ordinance, as it read prior to this amendment, shall remain in full force and effect.

SECTION THREE.

The provisions of this ordinance shall become effective immediately upon adoption by the Tribal Council and shall apply to any contract, claim, or suite whether arising or filed before or after the adoption of this Ordinance.

Introduced and adopted at a duly called meeting of the Tribal Council of the Hopland Band of Pomo Indians on April 8, 2008 by a vote of 6 for, 0 against, 0 absent, 0 abstaining.

A handwritten signature in black ink, appearing to read 'Roman W. Carrillo Jr.', written over a horizontal line.

Roman W. Carrillo Jr., Tribal Chairman

CERTIFICATION

I hereby certify that I am the Secretary for the Tribal Council and that the above ordinance was adopted as indicated in said ordinance and that the above ordinance is a true and correct copy of the ordinance as so enacted.

A handwritten signature in blue ink, appearing to read 'Pamela Espinoza', written over a horizontal line.

Pamela Espinoza, Tribal Secretary

HOPLAND BAND OF POMO INDIANS

P.O. Box 610, Hopland, California 95449 Phone 707-744-1647 FAX 707-744-1506

TITLE 13 SECTION 4

NAHASDA Housing Assistance/Homebuyer Policy Ordinance

ORDINANCE OF THE HOPLAND BAND OF POMO INDIANS AMENDING ORDINANCE 00-05-26. THIS AMENDING ORDINANCE SETS FORTH THE ELIGIBILITY REQUIREMENTS FOR TRIBAL MEMBER ASSISTANCE THROUGH NAHASDA FIRST TIME HOMEBUYER ASSISTANCE.

The Tribal Council of the Hopland Band of Pomo Indians does hereby ordain as follows:

This Ordinance will set forth:

- Eligibility requirements for assistance to TRIBAL MEMBERS who are income eligible for NAHASDA First Time Homebuyer Assistance; and
- Conditions for receiving such assistance-

Eligibility Requirements for Receiving Assistance:

- Applicant must submit an initial application for assistance with the Tribal Housing Office.
- Applicant must secure mortgage financing through an approved lender. Applicant must also provide a copy of secured approved mortgage to tribe.

Mortgage rate will meet FHA mortgage limit that is current for the county of purchase within the State of California. Mortgage payment will not exceed 30% of the family's household adjusted annual income.

- Applicant must provide the Tribal Housing Department a Standard Residential Purchase Agreement.

Home will meet FHA minimum standards. The home will remain affordable for its useful life.

- The tribe will establish an eligibility list. Individuals not eligible will be sent a notice stating why the individual was not chosen for assistance.

Sandra C. Sigala Tribal Chair
Randolph M. Feliz Vice Chair
Deborah Rivera Secretary
Brian Ycepez Treasurer
James Crandell Member
Orval Elliott Sr. Member
Kenneth Arnold Sr. Member

Conditions for Receiving Assistance.

The entire amount owing in accordance with the schedule set forth below shall be due and payable in the event and on the date of a sale of the property.

Security Interest

(1) Initial Period Security Interest. If a sale occurs within two years from the effective date of this Note, Tribal member will make an additional payment to the Note Holder. The additional payment shall equal the difference between the amount paid for the Property and the sales price or appraised fair market value of the Property on the date of the sale, whichever is greater. Appraised fair market value shall be determined as provided in the Option Agreement recorded at the same time as this Note.

(2) Secondary Period Security Interest. Provided that Tribal Member complies with the terms of the Subordinate Security Instrument (described below) and the property is not sold or otherwise transferred, the amounts due and payable under this note shall not become due and payable, but shall be forgiven as follows:

The principal amount of the Loan shall be reduced by a percentage of the original principal balance of the Loan for each year of the Loan according to the following:

Percent of Original Principal - 2.5%

Year One	2.5%
Year Two	2.5%
Year Three	2.5%
Year Four	15%
Year Five	15%
Year Six	20%
Year Seven	20%
Year Eight	10%
Year Nine	10%
Year Ten	-0-

Such annual reductions shall take effect in arrears on the anniversary date of the Loan. The amount of the Loan due and payable at any time shall be determined after deducting the principal amount of the Loan.

Regarding Dissolutions.

In the event of dissolution of applicants party to this agreement, where more than one applicant is a Tribal member, or, where more than one applicant is listed on all legal documents, applicant(s) will be ineligible for additional homebuyer assistance from the tribe. Unless the applicant has not owned a home in three years. is a displaced homemaker or a single parent.

Regarding Refinancing.

A Tribal member receiving assistance under this program may secure a second mortgage or refinancing.

Death, Terminal Illness, or Permanent Disability.

The Tribe encourages all applicants to understand the additional benefits and coverages that secure the investment for the dwelling and protect the estate of the applicant. It is in the best interests of the applicant to execute a Living Trust or Will.

Allocation Formula.

The award amount is based on 25% of the maximum purchase price of the home for that county. The tribe will assist with closing costs the amount will not exceed \$5,000.00.

CERTIFICATION

The foregoing Ordinance was adopted at a regular meeting of the Tribe, with a quorum present, held on June 12, 2020, by the following vote:

AYES: 6
NAYS: 0
ABSTAIN: 0
ABSENT: 0


Sandra C. Sigala, Chairperson


Deborah Rivera, Tribal Council Secretary

HOPLAND BAND OF POMO INDIANS

P.O. Box 610, Hopland CA. 95449 PH: (707) 744-1647 FAX: (707) 744-9101

TITLE 13 SECTION 8

ORDINANCE NO. 02-09-23

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE HOPLAND BAND OF POMO INDIANS ADOPTING A NEW CHAPTER TO TITLE 18 OF THE HOPLAND TRIBAL CODE ENTITLED LEASEHOLD MORTGAGE FORECLOSURE ACT

The Tribal Council of the Hopland Band of Pomo Indians hereby ordains as follows:

Findings and Declarations. The Tribal Council ("Council") for the Hopland Band of Pomo Indians ("Tribe") finds and declares that:

1. There is a shortage of residential housing on the Hopland Indian Reservation ("Reservation").
2. In order to meet the demand for housing by members and employees of the Tribe, the Tribe needs to acquire additional lands and the financing necessary to construct new homes.
3. In order to secure financing for the acquisition of land and the construction of additional housing, the Tribal Council must establish a law that will provide lenders the means of obtaining a secured interest in the land and homes acquired and constructed with the loan proceeds after title to the land is conveyed to the United States of America in trust for the Tribe.
4. To provide lenders with such a secured interest, the Tribal Council is enacting this Ordinance.
5. The adoption of this Ordinance is in the best interests of the Tribe and its members and will promote the health and safety of the Tribe by providing the means necessary for the Tribe to secure financing from lending institutions to acquire additional land and provide additional housing to its members.

Adoption of a New Chapter 2 of Title 18 of the Hopland Tribal Code Entitled "The Leasehold Mortgage Foreclosure Act." A new Chapter 2 entitled "The Leasehold Mortgage Foreclosure Act" is hereby added to Title 18 of the Hopland Tribal Code which shall provide as follows:

Chapter 2

THE LEASEHOLD MORTGAGE FORECLOSURE ACT

Sections:

- | | |
|--------|---|
| 13.801 | Definitions. |
| 13.802 | Applicability and Jurisdiction. |
| 13.803 | Purpose and Interpretation. |
| 18.804 | Priority of Lien. |
| 13.805 | Recording of Mortgages. |
| 13.806 | Notice Procedures for Foreclosures. |
| 13.807 | Foreclosure Proceedings; Summons and Complaint. |

13.808	Service of Summons and Complaint.
13.809	Relation to Other Proceedings at Law.
13.810	Cure of Default.
13.811	Foreclosure Proceedings; Judgment and Remedy.
13.812	Right of Redemption.
13.813	Foreclosure as Complete Satisfaction of Debt.
13.814	Foreclosure Evictions.
13.815	No Merger of Estates.

13.801 Definitions. As used in this Chapter, the following terms shall have the following meanings:

A. "Borrower/Mortgagor" shall mean the Tribe, any Tribal agency, or any individual Indian(s) or any heir(s), successor(s), executor(s), administrator(s), or assign(s) of the Tribe or such Indian(s) or non-Indian(s) who has executed a mort gage as defined in this Chapter or a Leasehold Mortgage as defined in this Chapter.

B. "Building" shall mean a structure, and any appurtenances or additions thereto, designed for habitation, shelter, storage and the like.

C. "Court of Competent Jurisdiction" shall mean the Hopland Tribal Court as established by the laws of this Tribe or such body as may now or hereafter be authorized by the laws of the Tribe to exercise the powers and functions of a Court of law.

D. "Housing Department" shall mean the Hopland Department of Housing, established by the Tribe's Tribal Housing Ordinance, for the purpose of constructing and maintaining dwellings for public use within the jurisdiction of the Tribe.

E. "Indian" shall mean any person recognized as being an Indian or an Alaska Native by any Tribe, or by the government of the United States.

F. "Lease" shall mean the residential ground lease or other agreement for land on which a leasehold mortgage has or will be given.

G. "Leasehold Mortgage" shall mean the mortgage of a lease of property given to secure a loan, which may be created under the auspices of any federal agency homebuyer program, including but not limited to the 184 Housing Program administered by the United States Department of Housing and Urban Development and the Mutual Help Home Ownership program administered by the Housing Department, or any other agreement entered between a borrower/mortgagor and a lender/mortgagee.

H. "Leasehold Mortgage Foreclosure Proceeding" shall mean a proceeding in a Court of Competent Jurisdiction:

- (1) To foreclose the interest of the borrower(s)/mortgagor(s), and each person or entity claiming through the borrower(s)/mortgagor(s), in a lease for which a leasehold mortgage has been given under the home purchase program of any federal agency or otherwise; and
- (2) To assign such lease to the applicable federal agency or the agency's assignee.

I. "Lender Designated Assignee" shall mean any lender as defined in this Chapter may assign or transfer its interest in a lease and/or leasehold mortgage to a designated assignee. If the lease and/or leasehold mortgage falls under a federal agency homebuyer program or federal agency loan guarantee program, the lender must seek written approval from the Tribe of a proposed designated assignee any time prior to such assignment, transfer or assumption, except where the U.S. government and federal agencies guaranteeing or insuring the leasehold mortgage acts as a lender designated assignee.

J. "Lender/Mortgagee" shall mean any private lending institution established to primarily loan funds and not to invest in or purchase properties, the Tribe, the Housing Department, or a U.S. government agency which loans money, guarantees or insures loans to a borrower/mortgagor for construction, acquisition, or rehabilitation of a home. It is also any lender-designated assignee(s) or successor(s) of such lender/mortgagee.

K. "Lessee" shall mean the homebuyer under any mortgage program, excepting the Tribe's Mutual Help Program or any other similar lease purchase and mortgage program under which the homebuyer is considered a tenant. The lessee may, for purposes of federal agency home mortgage programs, be the Housing Department.

L. "Lessor" shall mean the beneficial or equitable owner of property under a lease for which a mortgage, as defined in this Chapter, has been given, or the heir(s), successor(s), executor(s), administrator(s), or assign(s) of the Tribe or such Indian(s).

M. "Lien Creditor" shall mean the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a leasehold mortgage under this Chapter, except the Tribe shall not be considered a subordinate lienholder with respect to any claim regarding a tribal tax on real property.

N. "Mortgage" shall mean a lien as is commonly given to secure advances on, or the unpaid purchase price of, a building, and may refer both to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or other term, as well as the credit instrument, or note, secured thereby.

O. "Owner" shall mean any person or entity jointly or individually having legal title to all or part of land or a dwelling, including the legal right to own, manage, use, or control a dwelling unit under a leasehold mortgage, long-term lease, or any other security arrangement.

P. "Person" shall include an individual or organization, and where the meaning of a portion of this Chapter requires, it means a public agency, corporation, partnership, or any other entity.

Q. "Redemption" shall mean the right of a borrower/mortgagor, judgment debtor or lien creditor to repay the amount owed on a building sold or reassigned upon the foreclosure of a leasehold mortgage, or on special or general execution against the building of a judgment debtor, or upon the foreclosure of any lien upon such building other than a lien for taxes or special assessment.

R. "Reservation" shall mean the Hopland Indian Reservation.

S. "Tribal Recording Clerk" shall mean the person designated by the Tribe to perform the recording functions required by this Chapter or any deputy or designee of such person.

T. "Tribe" shall mean the Hopland Band of Pomo Indians.

U. "Trust or Restricted Land" shall mean any land owned by the United States of America in trust for the Tribe or an Indian.

18.802 Applicability and Jurisdiction. The provisions of this Chapter shall apply to any and all leasehold mortgages involving all (a) buildings that may lie upon lands owned by, held in trust for, leased or used by the Tribe, its members, or any entity or agency of the Tribe; and (b) persons or entities within the jurisdiction of the Tribe who lease, mortgage, or otherwise secure an interest in a building.

18.803 Purposes and Interpretation. The provisions of this Chapter shall be strictly interpreted and construed to fulfill the following purposes: (a) to clarify the law governing the rights, obligations, and remedies of the owners, sellers, lessors, and lessees, of buildings; and (b) to establish laws and procedures that are necessary to avail the Tribe, tribal entities, and tribal members of financing for the construction and/or purchase of family residences within the jurisdiction of the Tribe by prescribing procedures for the recording, priority and foreclosure of leasehold mortgages.

18.804 Priority of Lien. All leasehold mortgages recorded in accordance with the procedures set forth in this chapter, including loans guaranteed or held by the U.S. Government, shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim excepting a lien or claim arising from a tribal leasehold tax assessed after the recording of the mortgage.

13.805 Recording of Mortgages. All liens, mortgages and leases on trust or restricted land authorized by this Chapter shall be recorded with the Bureau of Indian Affairs Area Land Titles and Records Office. A mortgagee may also require that the leases and mortgages on trust land or restricted land shall be recorded in the county recorder's office of the County in the State where the property is located.

13.806 Notice Procedures for Foreclosure.

A. A borrower/mortgagor shall be considered to be in default when he or she is thirty (30) days past due on mortgage payment(s) to the lender/mortgagee.

B. If a borrower/mortgagor has been in default under a leasehold mortgage for sixty (60) days or more, the lender/mortgagee may commence a foreclosure proceeding in a Court of Competent Jurisdiction, provided that the lender/mortgagee has complied with the notice procedures set forth in subsection (c) below:

C. Prior to initiating a foreclosure proceeding, a lender/mortgagee must:

- (1) Make a reasonable and good faith effort to arrange and have a face-to-face interview with the borrower/mortgagor at the mortgaged property, including but not limited to sending two letters to the borrower/mortgagor or his or her agent for the purpose of trying to arrange a face-to-face interview. The lender/mortgagee may appoint an agent to arrange and conduct the face-to-face interview;
- (2) Notify the borrower/mortgagor in writing that the lender/mortgagee may initiate a foreclosure proceeding against the borrower/mortgagor;
- (3) Notify the borrower/mortgagor that information regarding the loan and default may be given to credit bureaus;

- (4) Notify the borrower/mortgagor of homeownership counseling opportunities/programs available through the lender or otherwise;
- (5) Notify the borrower/mortgagor of other available assistance regarding the mortgage/default; and
- (6) When the mortgage was made pursuant to a U.S. government agency leasehold mortgage program:
 - (i) Notify the borrower/mortgagor that if the leasehold mortgage remains past due for more than sixty (60) days, the lender/mortgagee may ask the applicable U.S. government agency to accept assignment of the leasehold mortgage if this is a requirement of the U.S. government program;
 - (ii) Notify the borrower/mortgagor of the qualifications for forbearance relief from the lender/mortgagee, if any and that forbearance relief may be available from the U.S. government if the mortgage is assigned;
 - (iii) Provide the borrower/mortgagor with names and addresses of government officials to whom further communications may be addressed, if any; and
 - (iv) Notify the borrower that if the borrower defaults during a repayment plan arranged other than during a face-to-face interview, the lender/mortgagee must have a face-to-face interview or attempt to arrange such an interview within thirty (30) days after the default or thirty (30) days before assignment is requested.

13.807 Foreclosure Proceedings; Summons and Complaint. A complaint in a mortgage foreclosure proceeding filed with the Court shall contain:

- A. The name(s), as defendant(s), of the borrower/mortgagor and each person or entity claiming an interest through the borrower/mortgagor subsequent to the recording of the mortgage, including each lien creditor (except the Tribe with respect to a claim for a tribal leasehold);
- B. A description of the property subject to the mortgage;
- C. A concise statement of the facts concerning the execution of the lease and the leasehold mortgage; the facts concerning the recording of the leasehold mortgage; the facts concerning the alleged default(s) of the borrower/mortgagor; and such other facts as may be necessary to constitute a cause of action;
- D. A true and correct copy of each promissory note; if a leasehold mortgage, the lease; the mortgage, and any assignment thereof relating to the property, all of which shall be appended as exhibits;
- E. A statement and proof by affidavit or declaration under penalty of perjury that all relevant preconditions to initiation of the foreclosure proceeding, as set forth in this Chapter, tribal law, federal laws and regulations, or the leasehold mortgage or security instrument, have been satisfied; and
- F. Any other matter required by the rules of procedure of the Court of Competent Jurisdiction where the complaint is filed.

13.808 Service of Summons and Complaint. Service of the summons and complaint shall be performed according to the rules and procedures of the Court of Competent Jurisdiction where the complaint is filed.

13.809 Relation to Other Proceedings at Law.

A. If a judgment has been entered against the borrower/mortgagor by a Court of Competent Jurisdiction in an action solely for recovery of the debt secured by a leasehold mortgage and the judgment is unsatisfied in whole or in part and the Court finds that the borrower/mortgagor has insufficient property to satisfy such judgment or execution thereof, foreclosure proceedings may be separately initiated, unless an execution against the mortgaged property of the borrower/mortgagor was issued in the said judgment.

B. After an action for foreclosure commences and while it is pending, no separate proceedings shall be had for the recovery of the debt secured by the leasehold mortgage, or any part thereof, unless authorized by the Court.

13.810 Cure of Default. Prior to the entry of a judgment of foreclosure, any borrower/mortgagor may cure the default(s) under the mortgage by making a full payment of the delinquent principal and interest due to the lender/mortgagee and all reasonable legal and court costs incurred in foreclosing on the property. In such case, any pending foreclosure proceeding(s) shall be dismissed.

13.811 Foreclosure Proceedings, Judgment and Remedy. Except as otherwise provided by this Chapter, foreclosure proceedings shall be heard and decided by the Court of Competent Jurisdiction according to the Court's rules of procedure. If the alleged default has not been cured at the time of trial and the Court finds for the lender/mortgagee, the Court shall enter judgment:

A. Foreclosing the interest of the borrower/mortgagor and each other defendant, including lien creditors, in the leasehold mortgage; and

B. Assigning a leasehold mortgage to the lender/mortgagee or the lender's designated assignee subject to the following provisions:

- (1) The lender/mortgagee may give the Tribe the right of first refusal on any acceptable offer to purchase the lease or leasehold mortgage which is subsequently obtained by the lender or lender's designated assignee;
- (2) The lender/mortgagee or lender's designated assignee may only transfer, sell or assign the lease and/or leasehold mortgage to a Tribal member of the Tribe, or the Tribe, and the Tribe must approve an assignment or assumption of the lease on Trust Land; and
- (3) Any other transfer, sale or assignment of the lien or leasehold mortgage shall only be made to a member of the Tribe, the Tribe, or the Tribe's Housing Department during the remaining period of the leasehold.

C. Upon good cause shown, enjoining the defendant(s) from damaging the mortgaged building.

13.812 Right of Redemption. The borrower/mortgagor or judgment debtor may, unless otherwise agreed in writing, redeem the property within one hundred eighty (180) days of entry of judgment by paying the lender/mortgagee or lender designated assignee(s) the purchase price together with interest thereon at the rate of 8 percent per annum from the date of default to the date of redemption, together with the amount of any assessments or additional costs.

There shall be no right of redemption in the borrower/mortgagor judgment debtor in connection with a Secretary-held leasehold mortgage administered under any loan guarantee program by the United States Department of Housing and Urban Development.

13.813 Foreclosure as Complete Satisfaction of Debt. A foreclosure of a leasehold mortgage by Court proceedings operates as a complete extinguishment, satisfaction and payment of the debt secured by the mortgage. However, a foreclosure may not be considered to be satisfaction of an assignment of rents agreement under the mortgage.

13.814 Foreclosure Evictions. Except as otherwise provided in this Chapter, evictions following entry of a judgment of foreclosure by the Court shall be conducted pursuant to the eviction procedures provided in the Tribe's Unlawful Detainer Ordinance, with the added provision that foreclosure eviction proceedings shall not occur until after the expiration of the redemption period and after the borrower/mortgager, lessee, or occupier has received thirty (30) calendar day's notice.

13.815 No Merger of Estates. There shall be no merger of estates by reason of the execution of a lease or a leasehold mortgage or the assignment or assumption of the same, including an assignment adjudged by the Court, or by operation of law, except as such merger may arise upon satisfaction of the leasehold mortgage.

Severability. If any provision of this Ordinance is found to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

No Retroactive Effect. This Ordinance shall apply prospectively to mortgages entered after the effective date of this Ordinance. This Ordinance shall have no retroactive effect.

Effective Date. This Ordinance shall take effect immediately after its passage.

CERTIFICATION

The foregoing Leasehold Mortgage Foreclosure Ordinance was adopted at a special meeting of the Tribal Council of the Hopland Band of Pomo Indians held on the 23rd day of September, 2002, and adopted by the following vote:

AYES: 3
NOES: 3
ABSENT: 2
ABSTAIN: 2


Sandra C. Sigala, Chairperson

ATTESTED:


Julie Vedolla-Fuentes, Secretary

HOPLAND BAND OF POMO INDIANS

P.O. Box 610, Hopland CA. 95449 PH: (707) 7441647 FAX: (707) 744-9101

TITLE 13 SECTION 6 ORDINANCE NO. 02-09-10

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE HOPLAND BAND OF POMO INDIANS ESTABLISHING A SUMMARY TRIBAL COURT PROCEDURE FOR OBTAINING POSSESSION OF TRUST LANDS ON THE HOPLAND INDIAN RESERVATION

The Tribal Council of the Hopland Band of Pomo Indians hereby ordains as follows:

Findings and Declarations. The Tribal Council("Council") for the Hopland Band of Pomo Indians ("Tribe") finds and declares that:

1. A continuing problem exists on the Hopland Indian Reservation ("Reservation") caused by persons who come into lawful possession of Reservation trust lands, and holds over or stays in possession of those lands after their lease, permit, or other authorization allowing them to take possession of said lands expires.
2. At the present time, in order to remove these persons from Reservation lands, the Tribe must file an ejectment action against the individual in federal court seeking an order from the Court evicting the person from the Tribe's Reservation trust lands.
3. The federal courts, on the other hand, are not set up to handle evictions through a summary proceeding. Therefore, conducting an eviction in federal court takes months, if not years, and is very expensive.
4. To alleviate the problems encountered by the Tribe evicting persons through federal court, the Tribal Council believes it is in the best interests of the Tribe to grant to the Tribal Court the authority to hear proceedings in unlawful detainer and issue orders to evict persons from Reservation trust lands that the Tribal Court determines are trespassers and to establish by law a summary eviction process that will govern unlawful detainer proceedings in Tribal Court.
5. In order to accomplish these goals, the Tribe is enacting this Ordinance granting the Tribal Court the authority to hear unlawful detainer cases and establishing a summary Tribal Court procedure for obtaining possession of Reservation trust lands.

Adoption of New Chapter 7 of Title 13 of the Hopland Tribal Code Entitled "Summary Procedure for Obtaining Possession of Trust Lands on the Hopland Indian Reservation". A new Chapter 7 entitled "Summary Tribal Court Procedure for Obtaining Possession of Trust Lands on the Hopland Indian Reservation" is hereby added to Title 13 of the Hopland Tribal Code and shall provide as follows:

CHAPTER 7

SUMMARY TRIBAL COURT PROCEDURE FOR OBTAINING POSSESSION OF TRUST LANDS ON THE HOPLAND INDIAN RESERVATION

Sections:

- 13.601 Definitions.
- 13.602 Forcible Entry; Party in Possession.
- 13.603 Forcible Detainer Defined.
- 13.604 Forcible Entry and Detainer Prohibited.
- 13.605 Unlawful Detainer Defined.
- 13.606 Notice; Methods of Service.
- 13.607 Necessary Party Tenants; Joinder; Judgment; Subtenants after Notice to Tenant; Persons Bound by Judgment.
- 13.608 Complaint; Verification; Summons.
- 13.609 Writ of Possession; Issuance and Directions; Grounds; Undertaking; Limitation on Defendant's Damage Action.
- 13.610 Summons; Form; Issuance; Service and Return.
- 13.611 Answer or Amendment: Time Allowed.
- 13.612 Motion to Quash Service or Stay or Dismiss Action Time.
- 13.613 Extension of Time; Consent of Adverse Party.
- 13.614 Entry of Default; Application for Relief.
- 13.615 Appearance; Answer or Demurrer.
- 13.616 Prima Facie Case; Defense.
- 13.617 Judgment; Restitution of Premises; Forfeiture of Lease; Treble Damages; Stay of Execution; Payment into Court; Enforcement; Disposition of Personal Property; Notice; Cost of Storage; Liability of Tribe/Sublessor.
- 13.618 Final Judgment.
- 13.619 Applicable Rules of Practice.
- 13.620 Relief Against Forfeiture; Application; Petition; Notice; Contest; Condition of Grant.
- 13.621 Precedent.

13.601 Definitions. As used in this Chapter, the following terms shall have the following meanings:

A. "Lease" shall mean any permit or other written agreement approved by the Tribal Council or its authorized agent authorizing a person to occupy a premises on trust lands and/or tribal lands.

B. "Person" shall mean any individual, partnership, corporation, government, organization, or any group acting in combination as a unit. The term "Person" shall not mean the Hopland Band of Porno Indians or any officers or employees of the Tribe acting at the direction of the Tribal Council under the Tribe's Self Help Eviction Ordinance or Conservation Code.

C. "Premises" shall mean a portion of trust lands or tribal lands that a person(s) is occupying.

D. "Tribal Council" or "Council" shall mean the Tribal Council of the Tribe or its duly authorized representative.

E. "Tribe" shall mean the Hopland Band of Pomo Indians.

F. "Trust Lands" shall mean all lands the title to which are owned by the United States government in trust for the Tribe.

G. "Reservation" shall mean all lands within the exterior boundaries of the Hopland Indian Reservation.

H. "Tribal Lands" shall mean all lands owned by the Tribe within the Reservation.

13.602 Forcible Entry; Party in Possession. Every person is guilty of a forcible entry who either: (1) by breaking open doors, windows, or other parts of a house on a premises of another or that of the Tribe or by any kind of violence or circumstance of terror enters upon or onto any premises of another or that of the Tribe; or (2) who, after entering peaceably upon the premises of another or that of the Tribe turns out by force, threats, or menacing conduct, the Tribe, its officers, agents or employees or any person in lawful possession of the premises. As used in this section, the phrase "person in lawful possession" means any person who has the authority to occupy the premises from the Hopland Tribal Council.

13.603 Forcible Detainer Defined. Every person is guilty of a forcible detainer who either: (1) by force or by menace and threats of violence, unlawfully holds and keeps the possession of any premises whether the same was acquired peaceably or otherwise; or (2) who during the absence of the occupant of any premises unlawfully enters upon said premises and who, after demand is made for the surrender thereof, for the period of one day, refuses to surrender the same to such former occupant or the Tribe. As used in this section, the terms "occupant of a premises" means any person who within one day preceding such unlawful entry, was in the peaceable and undisturbed possession of such premises with the consent or the permission of the Tribal Council.

13.604 Forcible Entry and Detainer Prohibited. Forcible entry and detainer are hereby prohibited. Any person guilty of a forcible detainer or entry shall be evicted and removed from the premises by a writ of possession entered by the Tribal Court in accordance with the procedures set forth in this Chapter for unlawful detainer, provided, however, that the plaintiff shall not be required to give or serve the three or thirty day notices required by Sections 7.050 and 7.060 of this Chapter.

13.605 Unlawful Detainer Defined. A tenant of a premises is guilty of unlawful detainer: (1) when the tenant continues in possession, in person or by subtenant, of the premises, or any part thereof, after the expiration of the term for which it is let to the tenant; or (2) when the tenant continues in possession, in person or by subtenant, without the permission of the Tribal Council, after default in the payment of rent, pursuant to the lease under which the premises is held and three days' notice, in writing, on a form approved by the Chief Judge of the Tribal Court for that purpose, demanding payment, stating the amount which is due, or possession

of the premises, shall have been served upon the tenant and if there is a subtenant in actual occupation of the premises also upon such subtenant. Such notice may be served at any time within one year after the rent becomes due; or (3) when the tenant continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease under which the premises is held, including any covenant not to assign or sublet, and "three days' notice in writing requiring the performance of such conditions or covenants shall have been served upon the tenant, and if there is a subtenant in actual occupation of the premises, also, upon such subtenant. Within three days after the service of the notice, the tenant or any subtenant in actual occupation of the premises, or any encumbrancer as defined in the lease or other person interested in its continuance may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture. A tenant may initiate proceedings, similar to those described in this section, to take possession of a premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his/her unlawful detainer of the premises sublet to him/her or held by him/her; (4) when any tenant or subtenant assigning or subletting or committing waste upon the premises, contrary to the conditions or covenants of the tenant's lease, or maintains, commits, or permits the maintenance or commission of a nuisance upon the premises or uses such premises for an unlawful purpose. The commission by the tenant or subtenant of any of the forgoing acts listed in this subsection (4) thereby terminates the lease, and the Tribe, and/or sublessor or his/her successor, shall upon service of a three day notice to quit upon the person or persons in possession be entitled to restitution or possession of such premises under the provisions of this Ordinance; and (5) when the tenant gives written notice of its intent to terminate the tenant's occupation of the premises, or makes a written offer to surrender which is accepted in writing by the Tribe or the sublessor, but fails to deliver up possession at the time specified in said written notice without the permission of the Tribe or the subtenant's sublessor, if any there be.

13.606 Notice, Method of Service. The notices required by Section 7.050 may be served by either: (1) delivering a copy to the tenant personally; or (2) if the tenant be absent from his/her place of residence and from his/her usual place of business by leaving a copy with some person of suitable age and discretion at either place. and sending a copy through the mail addressed to the tenant at his/her place of residence; or (3) if such place of residence and business cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the premises and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the premises is situated. Service upon a subtenant may be made in the same manner.

13.607 Necessary Party Tenants; Joinder, Judgment Subtenants after Notice to Tenant: Persons Bound by Judgment. No person, other than the tenant of the premises and the subtenant, if there be one, in the actual occupation of the premises when the complaint is filed need be made party defendants in the proceeding, but when it appears that any of the parties served in the process or appearing in the proceeding have committed forcible detainer or unlawful detainer, judgment shall be rendered against the tenant or subtenant. In case a defendant has become a subtenant of the premises in controversy, after the service of the notice upon the tenant of the premises provided for in Section 7.050 above, the fact that such notice was not served on each subtenant shall constitute no defense to the action. All persons who enter the premises under the tenant after the commencement of the suit, shall be bound by the judgment, the same as if he or she or they had been made a party to the action.

13.608 Complaint; Verification; Summons. The plaintiff in the complaint, which shall be verified, must set forth the facts upon which relief is requested, and by which the plaintiff seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force, or violence which may have accompanied the alleged forcible entry or forcible or unlawful detainer and claim damages therefore. If the unlawful detainer is based upon a default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint, a summons must be issued thereof by the Clerk of the Tribal Court.

13.609 Writ of Possession; Issuance and Directions; Grounds; Undertaking; Limitation on Defendant's Damage Action. Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession issued by the Tribal Court and directed to the Tribal Police; Bureau of Indian Affairs Police or the Sheriff of the County of Mendocino ("County"), and /or other authorized Tribal law enforcement official, for execution, where it appears to the satisfaction of the Tribal Court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides off of the Reservation, has departed from the Reservation, cannot, after due diligence be found on the Reservation, or has concealed himself/herself to avoid the service of summons. Written notice of the hearing on the motion shall be served on the defendant by the plaintiff in accordance with the Tribal Court's Rules of Pleading, Practice, and Procedure, and shall inform the defendant that he/she may file affidavits on his/her behalf with the Tribal Court and may appear and present testimony on his/her behalf, and that, if he/she fails to appear, the plaintiff may apply to the Tribal Court for a writ of possession. The Tribal Court Judge may require the plaintiff to file an undertaking with good and sufficient sureties in a sum to be fixed and determined by the Tribal Court Judge to the effect that, if the plaintiff fails to recover judgment against the defendant for the possession of the premises or if the suit is dismissed, the plaintiff will pay to the defendant such damages, not to exceed the amount fixed in the undertaking, as may be sustained by the defendant by reason of such dispossession under the writ of possession. An action to recover such damages shall be commenced by the defendant in the Tribal Court within one year from the date of entry of dismissal or of final judgment in favor of the defendant. Notwithstanding the foregoing, the Tribe shall not be required to post bond or any other type of surety in order to obtain a writ of possession

13.610 Summons; Form; Issuance; Service and Return. The summons shall be in the form that conforms to the Tribal Court's Rules of Pleading, Practice and Procedure except that the defendant's time to respond to the complaint shall be five days after the summons is served upon him/her. In all other respects, the summons shall be issued, served, and returned in the same manner as a summons in a civil action specified under the Tribal Court's Rules of Pleading, Practice, and Procedure.

13.611 Answer or Amendment; Time Allowed. In any action under this Chapter, unless otherwise ordered by the Tribal Court for good cause shown, the time allowed the defendant to answer the complaint, answer the complaint, if amended, or amend the answer shall not exceed five days.

13.612 Motion to Quash Service or Stay or Dismiss Action; Time. Notwithstanding any of the provision of law to the contrary, in any action under this Chapter; (a) where the defendant files a notice of motion to quash service, stay proceedings, or dismiss the complaint pursuant to the Court's Rules of Pleading, Practice, and Procedure, the time for filing the motion shall be the same for the filing of an answer and the time for hearing the motion by the Tribal Court shall not be less than three days nor more than seven days after the filing of the

notice; and (b) the service and filing of the notice of motion under subdivision (a) above shall extend the defendant's time to plead until five days after service upon the defendant of the written notice of entry of an order denying the defendant's motion except that for good cause shown the Tribal Court may extend the defendant's time to plead for an additional period not exceeding fifteen days.

13.613 Extension of Time, Consent of Adverse Party. Unless otherwise ordered by the Tribal Court for good cause shown, no extension of time allowed in any action under this Chapter for the causes specified in this Chapter shall exceed ten days without the consent of the adverse party.

13.614 Entry of Default; Application for Relief. If, at the time appointed, any defendant served with summons who has not filed an answer or having filed an answer has failed to appear on the date set for a hearing in the matter, the Clerk, or the Tribal Court Judge, upon application of the plaintiff may enter the default of such defendant or defendants, and thereafter the plaintiff may apply to the Tribal Court for the relief demanded in the complaint, including the cost, against such defendant, or defendants, or against any one or more of such defendants.

13.615 Appearance; Answer or Demurrer. On or before the date fixed for his/her appearance, the defendant may appear and move to dismiss the plaintiff's complaint.

13.616 Trials: Prima Facie Case; Defense. Whenever an issue of fact is presented by the pleadings, it must be tried by the Tribal Court Judge. No party shall have the right to a trial by jury. On the trial of any proceedings for any forcible entry or forcible detainer, the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of that he/she was peaceably in the actual possession of the premises at the time of the forcible entry or was entitled to the possession at the time of the forcible detainer. The defendant may show in his/her defense that he/she or those whose interests in such premises he/she claims, have been in the quiet possession thereof prior to the commencement of the proceedings and that his/her interest therein is not then ended or determined or does not violate any applicable provisions of tribal or federal law; and such showing is a bar to the proceedings.

13.617 Judgment; Restitution of Premises, Forfeiture of Lease; Treble Damages. Stay of Execution; Payment into Court; Enforcement; Disposition of Personal Property; Notice, Cost of Storage Liability of Tribe/Sublessor.

(A) If, upon the trial, the judgment of the Court, be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceedings be for an unlawful detainer after neglect or failure to perform the conditions or covenants of the lease under which the premises is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of such lease with the notice required by Section 7.050 of this Chapter stating that the election of the Tribe or the sublessor to declare the forfeiture thereof but if such notice does not state such election, the lease shall not be forfeited.

(B) The Court shall also assess the damages occasion to the plaintiff by any forcible entry or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent. If the defendant is found guilty of forcible entry, or forcible or unlawful detainer and malice is shown, the plaintiff may be awarded either damages and rent due or punitive damages in an amount which does not exceed three times the amount of

damages and rent found due. The Court shall determine whether damages and rent found due or punitive damages shall be awarded and judgment shall be awarded accordingly.

(C) When the proceeding is not for an unlawful detainer after default in the payment of rent and the lease under which the rent is payable has not by its terms expired and the notice required by Section 7.050 has not stated the election of the Tribe or the sublessor to declare the forfeiture thereof, the Court may, and, if the lease is in writing, is for a term of more than one year, and does not contain a forfeiture clause shall order that execution upon the judgment shall not be issued until the expiration of five days after the entry of the judgment, within which time the tenant, or any subtenant or any encumbrancer may pay into the Court, for the Tribe or sublessor, the amount found due as rent with interest thereon in the amount of the damages found by the Court for the unlawful detainer and the cost of the proceeding and thereupon the judgment shall be satisfied and the tenant restored to the premises. If the payment as herein provided is not made within five days, the judgment may be enforced for its full amount, and for the possession of the premises. In all other cases, the judgment may be enforced immediately.

(D) A plaintiff, having obtained a writ of restitution of the premises pursuant to an action for unlawful detainer shall be entitled to have the premises restored to it by officers charged by the Tribal Council with the enforcement of such writs. Promptly upon payment of any reasonable costs of service, the enforcing officer shall serve an occupant or post a copy of the writ on the premises as provided for in Section 7.050 of this Chapter. In addition, where the copy is posted on the premises, another copy of the writ shall be mailed to the defendant at his/her business or residence address last known to the plaintiff or the plaintiff's attorney or, if no such address is known, at the premises. The writ of restitution of the premises shall include a statement that the personal property remaining on the premises at the time of its restitution will be sold or otherwise disposed of in accordance with the Tribe's procedures set forth in the Tribe's Abandoned Property Ordinance unless the tenant or owner pays the Tribe or sublessor the reasonable cost of storage and takes possession of the personal property not later than fifteen (15) days after the time the premises are restored to the Tribe or sublessor. If a tenant does not vacate the premises within five days of the date of service or, if a copy of the writ is posted, within five days from the date of mailing of the additional notice, the enforcing officer shall remove the tenant and the tenant's personal property from the premises and place the plaintiff in possession thereof. It shall be the duty of the party delivering the writ to the officer for execution to furnish the officer a certified copy of the Judgment or Writ of Possession.

(E) Any personal property remaining on the premises which the sublessor or, in the case of the Tribe, the Tribe reasonably believes to have been abandoned shall be disposed of pursuant to the Tribe's Abandoned Property Ordinance. The sublessor or the Tribe, in the case of the Tribe, is not liable to the owner of any personal property which they dispose of in this manner.

(F) The sublessor, or the Tribe, shall store the personal property in a place of safekeeping until it is either released pursuant to subdivision (g) below or disposed of pursuant to subdivision (h) below.

(G) The sublessor, or in the case of the Tribe, the Tribe shall release the personal property to the tenant, or, at the sublessor's or, in the case of the Tribe, the Tribe's option to a person reasonably believed by the sublessor/Tribe to be its owner if such tenant or other person pays the cost of storage as provided herein and claims the personal property not later than the date specified in the writ of restitution before which the tenant

must make his/her claim or the date specified in the notice before which a person other than the tenant must make his/her claim.

(H) Personal property not released pursuant to subdivision (G) shall be disposed of pursuant to the Tribe's Abandoned Property Ordinance.

(I) Where the sublessor or, in the case of the Tribe, the Tribe releases personal property to the tenant pursuant to subdivision (G), the sublessor/Tribe is not liable with respect to that property to any person.

(J) Where the sublessor or, in the case of the Tribe, the Tribe releases personal property pursuant to subdivision (G) to a person (other than a tenant) reasonably believed by the sublessor/Tribe to be its owner, the sublessor/Tribe is not liable with respect to that property to: (1) the tenant or any person to whom notice was given pursuant to subdivision (F); or (2) any other person, unless in the case of sublessor only, such person proves, prior to releasing the property, that the sublessor believed that a reasonable person should have believed that the person had an interest in the property and also that the sublessor knew or should have known upon reasonable investigation the address of such person.

(K) Where personal property is disposed of pursuant to the Tribe's Abandoned Property Ordinance, the sublessor/Tribe is not liable with respect to that property to any tenant or to any other person to whom notice was given pursuant to subdivision (F) or (2) any other person, unless in the case of a sublessor only, such person proves that prior to disposing of the property pursuant to the Tribe's Abandoned Property Ordinance, the sublessor believed or reasonably should have believed that such person had an interest in the property and also that the sublessor should have known upon reasonable investigation the address of such person.

13.618 Final Judgment. The decision of the Tribal Court Judge shall be final and non-appealable. Any party to whom the Tribal Court has entered an adverse judgment against under this Chapter, may make application to the Tribal Court for reconsideration pursuant to the Court's Rules of Pleading, Practice, and Procedure.

13.619 Applicable Rules of Practice. Any proceedings before the Tribal Court under this Chapter not specified herein shall be governed by the Rules of Pleading, Practice, and Procedure of the Hopland Tribal Court.

13.620 Relief Against Forfeiture: Application, Petition, Notice, Contest; Condition of Grant. The Tribal Court may relieve a tenant against a forfeiture of a lease, and restore him/her to possession of the premises, where application for such relief is made within ten days after the forfeiture is declared by the judgment of the Court. The application may be made by a tenant or subtenant or an encumbrancer or any person interested in the continuation of the lease. It must be made upon petition, setting forth the facts by which the relief is sought, and must be verified by the applicant. Notice of the application, with a copy of the petition, must be served on the plaintiff in the judgment, who may appear and contest the application. In no case shall the application be granted except on condition that full payment of rent due or full performance of conditions or covenants of the lease. The provisions of this Section shall not apply to any judgment or writ of possession entered by the Tribal Court to evict or remove a person found guilty of forcible entry or detainer.

13.621 Precedent. In all proceeding brought before the Tribal Court to recover the possession of trust lands or tribal lands pursuant to the provisions of this Chapter, the Tribal Court shall give such actions precedent over all other civil actions therein, except actions governed by the Court's Juvenile Court Rules, in the matter of the setting of the hearing or trial in the case to the end that all such actions may be quickly heard and determined.

Section 3. Severability. In the event that any section or provision of this Ordinance is held or determined to be invalid by any court of competent jurisdiction, it is the intent of the Tribal Council that the remaining sections or provisions of this Ordinance, and any amendments of this Ordinance shall continue in full force and effect.

Section 5. Amendments. This Ordinance may be amended at any time by the Tribal Council, when such amendment is necessary to promote the general health, safety, and welfare of the Tribe or its members.

Section 6. Repeal of Prior Ordinances. All prior Ordinances previously enacted by the Tribal Council, which are inconsistent with the provisions of this Ordinance are hereby repealed. If the provisions of this Ordinance conflict with the provisions of any other Ordinance, the provisions of this Ordinance shall control.

Section 7. Effective Date. This Ordinance shall take effect immediately after its adoption by the Tribal Council.

CERTIFICATION

The foregoing Ordinance was adopted at a regular meeting of the Hopland Tribal Council, with a quorum present, held on September 10, 2002, by the following vote:

AYES: 5

NOES: 0

ABSENT: 1

ABSTAIN: 0

Sandra C. Sigala, Chairperson

ATTESTED:

Julie Vedolla-Fuertes, Secretary

Hopland Band of Pomo Indians

PO Box 610, Hopland, California 95449 Phone (707) 744-1647 Fax (707) 744-1506

TITLE 14

SECTION 1

ORDINANCE NO. 04-10-11

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE HOPLAND BAND OF POMO INDIANS ENACTING A NEW CHAPTER OF THE TRIBAL CODE ENTITLED INDIAN CHILD WELFARE ORDINANCE.

The Tribal Council for the Hopland Band of Pomo Indians ("Tribe") hereby ordains as follows:

Findings: The Tribal Council for the Tribe finds and declares that the purpose of this Ordinance is to:

(A) Protect the best interests of children who are members of the Tribe, to prevent the unwarranted breakup of Hopland families, to maintain the connection of Hopland children to their families and Tribe, and to promote the stability and security of the Tribe by establishing tribal standards for the conduct of child custody proceedings involving Hopland children;

(B) Foster cooperative intergovernmental relations between the Tribe and the State of California, and other States and Tribes, with regard to the welfare of Hopland children and families;

(C) Provide child welfare services to Hopland children and families that are in accord with the traditions, laws and cultural values of the Tribe; and

(D) Preserve the opportunity for Hopland children to learn about their culture and heritage, and to become productive adult members of the Tribe, by experiencing their culture on a permanent basis.

Adoption of a New Chapter 5 to Title 1 of the Hopland Tribal Code Entitled: "Indian Child Welfare Ordinance." A new Chapter 5 shall be added to Title 1 of the Hopland Tribal Code Entitled "Indian Child Welfare Ordinance" which shall read as follows:

INDIAN CHILD WELFARE ORDINANCE

GENERAL PROVISIONS

Sections:

14.101	Definitions
14.102	Jurisdiction Of The Tribal Court
14.103	Duty To Investigate And Report Abuse And Neglect
14.104	Records Maintenance And Protection; Confidentiality
14.105	Medical Examinations
14.106	Payment Of Fees And Expenses
14.107	Responsibilities Of Adults
14.108	Commencement Of Action
14.109	Standard Of Proof
14.110	Use Of Reports In Juvenile Proceedings
14.111	Consolidation
14.112	Presence Of Parent, Guardian, Custodian Or Guardian Ad Litem
14.113	Grounds For Re-Hearing
14.114	Modification, Revocation Or Extension Of An Order Ad Litem
14.115	Guardian Ad Litem
14.116	Testimony By Videotape

14.101 Definitions: The terms under this Chapter are to be interpreted in a broad fashion designed to encourage the jurisdiction of the Tribal Court over children who come under this Chapter, and to facilitate the authority of the Tribal Court to act to protect the interests of Hopland children and families.

The terms of this Section 14.101 shall be interpreted in light of tribal laws, customs, and traditional child-rearing practices. Terms not specifically defined in this Chapter shall be defined according to their normal usage, or as defined in the Indian Child Welfare Act, 25 U.S.C. Section 1901 et. seq. as appropriate.

As used in this Chapter, the terms listed below shall have the following meaning:

- (1) Administrative Review - A case review system to review the case plan and the placement of each child receiving foster care maintenance payments from state or federal funds by a panel of no less than three (3) appropriate persons. The Social Security Act as amended by P.L. 96-272 shall set the minimum requirement for an administrative review.

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- (2) "Best Interests of the Child" - Means the preservation of the connection, or the creation of such a connection if one does not currently exist, between a Hopland child and his or her culture, family and Tribe in a setting that is stable, secure, safe, healthy and emotionally, spiritually, socially, and intellectually enriching, and in which the special needs of that child may be met.
- (3) Case Plan - A written document for each child under the jurisdiction of the Tribal Court which shall include a detailed service plan designed to reunite the family, and be designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the Parent's home consistent with the best interests and special needs of the child. In the event that reunification is determined not to be in the best interests of the child, the family and/or the Tribe, the service plan shall be designed to achieve other appropriate permanent placement goals that are in the best interests of the child, the family and/or the Tribe, provided that such goals are not inconsistent with other provisions of this Chapter. The case plan shall include at a minimum a family, which will provide those services, the time frame in which the services will be provided, what standard will be considered compliance with the services, and the respective responsibilities of the Tribal Social Services Department ("Social Services Department" or "Department"), the family and the child in making the services available and in taking advantage of such services. The case plan shall include at a minimum all requirements of the Social Security Act as amended by the Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272 for case plans where the child is receiving foster care maintenance payments from federal or state funds. The Tribal Court shall review this case plan and its implementation by the Tribal Department of Social Services in order to determine whether or not "reasonable efforts" are being made to prevent or eliminate the need for removal of the child from the home, or to make possible the child's return to his or her home. The Court shall include such findings in its Order upon a review or disposition.
- (4) Case Review System - A procedure to review the status of each child in foster care no less than once every six (6) months, beginning from the date of placement, by the Tribal Court and Tribal Social Services Department or Administrative Review Panel, if appropriate.
- (5) Contempt of Court - Any willful disobedience or interference with any order of the Tribal Court constitutes contempt of Court.
- (6) Custodian - A person other than a parent or guardian, who has custody of a minor and who is providing food, shelter and supervision to him or her.

- (7) Delinquent Act - An act which is designated as a crime under any Hopland Ordinance or any law of the State of California that applies to members of the Tribe on the Reservation under Public Law 280.
- (8) Domicile - The permanent residence of an individual. The domicile of a child is presumed to be that of the child's mother unless proven otherwise.
- (9) Extended Family - A person who is a tribal member and who has reached the age of eighteen (18) and is the minor's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, step-parent, godparent or traditionally appointed custodian.
- (10) Foster Care - A social service which provides substitute family care for a child for a planned period of time when the child's own family cannot care for him or her. The goal of foster care or any placement is a permanent family for the child.
- (11) Guardian - A person other than the minor's parent who is by law responsible for the care and custody of that minor or his or her estate, or both.
- (12) Guardian ad-litem - An adult appointed by the Court to represent a child in any suit to which he or she may be a party, for the protection of the child's best interests.
- (13) Minor - An unmarried person under eighteen (18) years of age; a person eighteen (18) years of age or older concerning whom proceedings are commenced in Tribal Court prior to his or her eighteenth birthday; a person eighteen (18) years of age or older under the continuing jurisdiction of the Tribal Court.
- (14) Parent - Includes natural or adoptive parents but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.
- (15) Shelter Care - A home or other living facility used as a temporary living place for a minor pending the return of the minor or his or her family, or his or her placement in a residential facility designed for long-term placement which does not physically restrict the minor.
- (16) Status Offender - A minor who: (a) does not comply with the requirements of the compulsory school attendance section of this Chapter; (b) disobeys, continually and habitually, the reasonable and lawful demands of his parent, guardian or custodian and who is beyond parental control; or (c) has left the home of the parent, guardian, or custodian without consent and has remained away for at least twenty-four (24) hours.

(17) Youth in Need of Care - A child who has been found to be in one or more of the following situations:

(A) Abused child - a child who has suffered or is likely to suffer a non-accidental physical injury which causes or creates a substantial risk of death, disfigurement, impairment or bodily functions, or serious physical or emotional harm, as determined by appropriate medical or professional personnel, or has been sexually abused or subjected to the threat of sexual abuse;

(B) Neglected child - a child whose parent or custodian fails or is unable to carry out their parental or custodial duties to the extent that the child's physical or emotional health, safety, welfare or intellectual development are harmed, or threatened, including the failure of such parent or other custodian to take advantage of reasonably available public assistance and service programs designed to furnish such needs where the parent or custodian cannot provide such needs on their own;

(C) Abandoned or dependent child - a child whose parent or custodian has left the child without reasonable arrangements for care and supervision such that the physical or emotional health of the child is affected or threatened, or a child who has no parent or other custodian able, willing, and available to fulfill parental duties; or

(D) Delinquent child - a child who has been found by any court of competent jurisdiction to have committed repeated delinquent acts or omissions, including violations of any criminal laws or ordinances, or a child who is beyond the control of his or her parents or custodians to the extent where outside assistance is required.

14.102 Jurisdiction Of The Tribal Court: Unless otherwise defined, the jurisdiction of the Hopland Tribal Court and the Tribe under this Chapter over child welfare matters shall extend to all children who are within the jurisdiction of the Court under this Chapter, regardless of whether they reside on or off the Tribe's reservation or service area or are domiciled on the Hopland Indian Reservation. The Tribal Court shall also have jurisdiction over Hopland Indian Children who reside beyond the service area of the Tribe. It is understood that the jurisdiction of the Hopland Tribal Court and of the Tribe over children under this Ordinance may in some cases be concurrent with the jurisdiction of other sovereigns.

Hopland children shall include all children of Hopland Pomo descent who are members of the Tribe or eligible for membership in the Tribe wherever they are found. The Tribe and its Tribal Court shall have jurisdiction over children who are children of Hopland tribal members or of their spouses, and over children by the consent of the parties with custody of such children. The Tribe shall have jurisdiction over other Indian children who reside on Tribal trust land.

14.103 Duty To Investigate And Resort Abuse And Neglect:

(1) Basis of investigation and Report - Persons who have a reasonable cause to suspect that a minor has been abused or neglected shall report the suspected abuse or neglect to the tribal agency responsible for investigating allegations of abuse or neglect. The Tribal Social Services Department, or a tribal law enforcement agency after one is established, shall immediately investigate all allegations of abuse and neglect, and if appropriate, proceed according to the provisions of this Chapter.

(2) Persons Required to Report - Those persons who are required to report suspected abuse or neglect include any physician, nurse, dentist, optometrist or medical or mental health professional; school principal, school teacher, or other school official; social worker; child day care center worker or other child care staff including foster parents, residential care or institutional personnel; counselor; peace officer or other law enforcement official; judge, attorney, court counselor, clerk of the Court or other judicial system official.

(3) Other Persons Reporting - Any person may make a report of suspected abuse or neglect to the proper tribal officials.

(4) Anonymity - Those persons reporting, except those specified in Section 14.103(2), may remain anonymous if the Court so determines.

(5) Immunity from Liability - All person or agencies reporting in good faith, known or suspected instances of abuse or neglect, shall be immune from civil liability and criminal prosecution.

14.104 Records Maintenance And Protection, Confidentiality:

(1) Court Records - A record of all hearings under this Chapter shall be made and preserved under the jurisdiction of the Court has ended.

(2) Confidentiality - All Court records are confidential and shall not be open to inspection other than by Court personnel or by any person except for the following:

- (A) The minor and his or her attorneys;
- (B) The minor's parent, guardian or custodian and his or her attorney;
- (C) The tribal caseworker and the tribal attorney;
- (D) The present officer; or
- (E) Any other person the Court determines has a valid reason to see such records and who is issued a written order detailing the reasons for permitting such person to review such records.

All Court files, documents, or other material associated with a child custody proceeding governed by this Chapter shall be kept confidential, unless ordered released by order of the Court. This confidentiality provision applies to all divisions and departments of the Tribe, including social service and law enforcement agencies. This section applies to the release of the names of children, families or witnesses involved in proceedings under this Chapter.

Disclosure of documents and material to authorize public agencies, whether tribal, federal or state, in the performance of the official duties of those agencies shall not violate this section.

All records included within this section shall be kept in a secure place by the Court Clerk and shall be released only pursuant to procedures developed by the Chief Judge of the Court. No other release of information shall be permitted without an order of the Court.

(3) Oath - Each person who inspects a minor's record shall be required to sign a written oath pledging to maintain the confidentiality of the records. Failure to abide by this pledge shall constitute contempt of Court.

(4) Destruction of Records - All records of the minor shall be destroyed when the minor is no longer subject to the Courts jurisdiction, except that records involving adoption or abuse of a minor shall not be destroyed and shall remain sealed until further order of the Court.

14.105 Medical Examinations: The Court may order a medical and/or psychological examination for a minor or any other party before the Court if it is determined after a hearing that the party's medical or psychological health are relevant to the issues before the Court.

14.106 Payment Of Fees And Expenses: There shall be no fee or filing a petition under this Chapter nor shall any fee be charged by any tribal officer for the service of process or for attendance in Court in any such proceedings. Witness fees shall be payable in accordance with the rules of this Court. Such fees and expenses, cost and publication of summons, and the expense of a trial of an adult person, when approved by the Court, shall be paid by either the parent, guardian or custodian of the minor before the Court, or by the Tribe.

14.107 Responsibilities Of Adults:

(1) Parental Responsibility.

(A) Parent as Party The parent of a child within the jurisdiction of the Tribal Court may be made a party to a petition if the child is alleged to be a youth-in-need-of-care, or a juvenile offender.

(B) Dispositions The Court may order the parent under this section to submit to counseling, participate in any probation or other treatment program ordered by the Court and, if the child is committed for institutionalization, to participate in any institutional treatment or counseling program including attendance at the site of the institution.

(C) Fines A parent shall not be liable for any fine their child may be ordered to pay.

(D) Cost of Support The Court shall order the parent, guardian or custodian to pay the reasonable cost or part of the cost of Court proceedings, and support and treatment of the child that the parent is financially able to pay if.

1. The child is adjudicated to be a youth-in-need-of-care, or a juvenile offender; and

2. The Court orders that child be placed with an agency, institution or an individual other than the parent.

(2) Other Adults: The Court shall join as a party in any proceeding under this Chapter any adult necessary for proper disposition of any case heard pursuant to this Chapter.

(3) Enforcement: The Court may enforce any of its orders issued under this section by use of its contempt power.

14.108 Commencement Of Action:

(1) Petition Except as otherwise provided below, proceedings in cases under this Chapter are begun by petition.

(2) Exceptions to Petition In the case of violations of motor vehicle or boating laws and ordinances, or fish and game laws and ordinances a petition shall not be required. The issuance of a traffic or other citation or summons for these violations is sufficient to invoke the jurisdiction of the Tribal Court. Unless the Court orders otherwise, a preliminary investigation is not required in such cases.

(3) Contents of Petition A petition shall be entitled "In the Matter of A Minor," and shall set forth:

- (A) The name, birth date and residence of the minor,
- (B) The names and residences of the minor's parent, guardian or custodian,
- (C) A citation to the specific section of this Chapter, which gives the Court jurisdiction of the proceedings.
- (D) Where applicable, a citation to the section of the Tribes' Criminal ordinance or the provision of State criminal law which the minor is alleged to have violated;
- (E) If the minor is in detention or shelter care, the place of detention or shelter care and the time he/she was taken into custody; and
- (F) A concise statement of the facts underlying the petition.

(4) Preparation of Petition The statements in the petition may be upon information and belief and the petition shall be prepared, verified and signed by the presenting officer or tribal caseworker.

(5) Dismissal The Court may dismiss a petition at any stage of the proceedings.

14.109 Standard Of Proof: The standard of proof for a juvenile offender's adjudicatory hearing, or termination of parental rights, shall be proof beyond a reasonable doubt, and for all other hearings the standard of proof shall be clear and convincing evidence.

14.110 Use Of Reports In Juvenile Proceeding: For the purpose of establishing that a child is a youth in-need-of-care, and for the purpose of determining proper disposition of a minor in any case, written reports and other materials relating to the child's mental, physical and social history and condition, may be received in evidence, and may be considered by the Court along with other evidence, but the Court may require that the person who wrote the report or prepared the material appear as a witness if he or she is reasonably available. Only evidence in any of these reports or documents shall be considered by the Court.

14.111 Consolidation: When more than one child is involved in the same situation which may be found to constitute abuse or neglect, or when more than one child is alleged to be involved in the same law violation, the proceedings may be consolidated, except that separate hearings maybe held with respect to disposition.

14.112 Presence Of Parent, Guardian, Custodian Or Guardian Ad Litem: The Court shall endeavor to insure the presence at all hearings of one or both parents or guardian or custodian of the minor. If no one is present, the Court may appoint a guardian ad litem to protect the interests of the child.

14.113 Grounds For Re-Hearing: A parent, guardian or custodian of any child whose status has been adjudged in a proceeding under this Chapter, or any adult affected by an order or judgment in a proceeding under this Chapter, may at any time petition the Court for a new hearing on the grounds that new evidence which was not known or could not with due diligence have been made available at the original hearing and which might affect the order or judgment, has been discovered. If it appears to the Court that there is such new evidence which might affect its order or judgment, it shall order a new hearing and enter such order or judgment and make such disposition of the case as is warranted by all the facts and circumstances and the best interests of the child.

14.114 Modification, Revocation Or Extension Of An Order:

(1) Upon Motion - The Court may modify, revoke or extend an order at any time upon the motion of the following:

- (A) The minor and his/her attorney;
- (B) The minor's parent, guardian or custodian, and his or her legal representative if appropriate;
- (C) The Tribal caseworker; or
- (D) The presenting officer.

(2) Hearing - A hearing to modify, revoke or extend a Court order shall be conducted according to the rules of the Court.

14.115 Guardian Ad Litem: The Court, at any stage of a proceeding, shall appoint a guardian ad litem for a minor who is a party, if the minor has no parent, guardian or custodian appearing on behalf of the minor or if the interest of the minor conflicts with the interest of parents, guardians or custodians or when it appears to the Court that the child's best interests warrant.

14.116 Testimony By Videotape: At the discretion of the Court, and where necessary to protect the best interests of the child, the Court may permit minors to testify by videotape, or take other steps necessary to protect the child in proceedings under this Chapter.

YOUTH IN NEED OF CARE

Sections:

14.117	Youth In Need Of Care Provision
14.118	Investigations And Reports
14.119	Taking A Minor Into Custody
14.120	Release Of Minor From Custody
14.121	Petition
14.122	Warrants And Custody Orders
14.123	Preliminary inquiry
14.124	Necessity For Emergency Custody
14.125	Emergency Placement
14.126	Investigation And Recommendations By The Caseworkers
14.127	Informal Adjustment Conference
14.128	Petition Process

14.117 Youth In Need of Care Provision:

(1) Policy: It is the policy of the Tribe to ensure an adequate physical and emotional environment that will protect the health, safety, and development of all Hopland children; to compel the parent or custodian of a Hopland child to provide a proper environment for their children; to facilitate changes or improvement in the home environment where necessary to provide a proper environment for the child; to establish a judicial process to protect the health and safety of Hopland children including the provision of substitute care and supervision for children in need of care; and to protect a child's identity and ties with his or her family and the tribal community.

14.118 Investigations And Reports:

(1) Required investigations The caseworker shall initiate all investigations of matters that arise under this Chapter, when any allegation of neglect, abuse, dependency or neglect is made. The Court may require that an investigation be made and a report be submitted to the Court in writing in all cases under this Chapter in which a petition has been filed, except violations of traffic, fish and game laws, and ordinances.

Investigations for juvenile offenders shall be submitted to the Court for dispositional purposes only and shall not be submitted until after adjudication is completed and the Court has found that the minor has committed the alleged acts.

(2) Scope of Investigation The investigation shall cover the child's home environment, history and associations, the present condition of the child and family, and recommendations as to the child's future care. The worker shall make conclusions as to the likely future of the family if no intervention occurs. In cases involving the duty of support, the study shall include such matters as earnings, assets, financial obligations and employment.

14.119 Taking a Minor Into Custody:

(1) A tribal representative shall be designated to handle emergency custody of minors under this Chapter. The representative shall be a law enforcement officer when the Tribe establishes a law enforcement department or contracts for law enforcement with another governmental agency. In the absence of a law enforcement officer, the tribal representative shall be a tribal social worker or some other person designated by the tribal social worker.

The tribal representative shall take a minor into custody if:

- (A) He or she has reasonable grounds to believe that the minor is a youth-in-need-of-care and is in immediate danger from his or her surroundings and that removal is necessary; or
- (B) An emergency custody order has been issued by the Tribal Court for the youth; or
- (C) He or she has reasonable cause to believe that a youth who is subject to the Tribal Court's jurisdiction is leaving the jurisdiction of the Court without permission.

14.120 Release Of Minor From Custody:

(1) The tribal representative who takes a minor into custody shall:

- (A) Release the minor, immediately to the minor's parent, guardian or custodian and issue verbal instructions or warnings as may be appropriate; or
- (B) If the tribal representative is not a tribal caseworker, deliver the minor immediately to the caseworker or to shelter care designated by the Court, or to a medical facility if the minor is believed to be in need of medical attention. If the minor is not delivered to a caseworker, the tribal representative shall notify the caseworker as soon as possible of the circumstances of the custody and location of the minor.

(2) The tribal caseworker, immediately upon arranging for custody of the minor or upon placement of the minor, shall review the need for custody and shall:

- (A) Notify the parent, guardian or custodian within twenty-four hours of learning that custody of the child has been taken; or
- (B) Release the minor to his/her parent, guardian or custodian unless the child requires shelter care.

(C) A minor taken into custody under this section shall be released to his/her parent, guardian or custodian within five (5) days of the time he or she was taken into custody unless the Court issues an order continuing custody to the child with the Tribe. In the event of a dispute regarding a minor's release from custody during the first five (5) days of custody, the child welfare caseworker and the tribal social services director shall have complete authority, in the absence of a Court order, to determine if the minor is to remain in custody.

14.121 Petition:

(1) The tribal caseworker shall review and investigate all complaints, and shall file a petition with the Court upon a preliminary determination that a child is a youth-in-need-of-care.

(2) The form of petition shall be in a form authorized pursuant to an order of the Tribal Court. The petition shall state:

(A) The specific sections of this Chapter which give the Court jurisdiction; and

(B) The provision of this Chapter or relevant Court order which is alleged to have been violated;

(C) The name, address, and age of the minor who is the subject of the petition;

(D) The names of all parties to the allegations; and

(E) The facts upon which the allegations are based, including the date, time, and location where the alleged facts occurred including any alleged witnesses; and if the child is in detention, shelter care or other custody, the time and date the child was placed in such care and the reasons therefore.

The present officer may assist in the preparation of any petition under this Chapter.

14.122 Warrants And Custody Orders: Warrants and custodial orders shall be issued pursuant to the Rules of the Court.

14.123 Preliminary Inquiry:

(1) Policy. The purpose of a preliminary inquiry is to determine the best interests of the minor and the Tribe with regard to any action to be taken with regard to a child once he or she is taken into emergency custody. In determining the child's best interests, the Court shall examine whether probable cause exists to believe the alleged act or abuse or neglect was committed and whether continued custody is necessary pending further

proceedings.

(2) Time. A preliminary inquiry involving a child shall be held within five (5) days from the time a child is placed in emergency custody. If the child has been released from emergency custody, the preliminary inquiry shall be held within ten (10) days from the date the child is released from emergency custody. If a child has not been placed in emergency custody, the preliminary inquiry shall be held within ten (10) days of the filing of a petition, if it is not dismissed.

(3) Attendance of Parent, Guardian or Custodian. If the minor's parent, guardian or custodian is not present at the preliminary inquiry, the Court shall determine what efforts have been made to notify and to obtain their presence. If it appears that further efforts are likely to produce their appearance in Court, the Court shall recess for not more than twenty-four (24) hours and shall direct the presenting officer to make continued efforts to obtain their presence.

(4) Dismissal of Petition and Release of Minor. If the Court determines that there is no probable cause to believe that the minor is a youth-in-need-of-care, the Petition shall be dismissed without prejudice and the minor released. If the Court determines that there is probable cause to believe that the minor is a youth-in-need-of-care but that the minor is not in need of emergency custody, the minor shall be released to the custody of his or her parent, guardian or custodian pending final disposition of the petition, under the protective supervision of the Tribe.

14.124 Necessity For Emergency Custody: A child shall be placed in emergency custody if the Court finds probable cause to believe that the minor is a youth-in-need-of-care and one or more of the following conditions exists:

- (1) The minor is suffering from an illness or injury, and no parent, guardian, custodian or other person is providing adequate care of him or her;
- (2) The minor is in immediate danger from his or her surroundings, and removal is necessary for the safety or well being of the child;
- (3) The minor will be subject to injury or abuse by others or by him or herself if not placed in custody by the Court;
- (4) The minor has been abandoned by his or her parent., guardian, custodian or other person;
- (5) No parent, guardian, custodian or other person is able or willing to provide adequate supervision and care for the minor, or

- (6) The minor will run away, or be taken beyond the jurisdiction of the Court, and will be unavailable for further proceedings.

14.125 Emergency Placement: A child in need of emergency placement may be placed, pending a Court hearing, in one of the following placements:

- (1) With extended family members who will be able to protect the health and safety of the child;
- (2) A foster care facility licensed or approved by the Tribal social services department;
- (3) A private family home licensed or approved as a foster home by the Tribal social services department; or
- (4) A shelter care facility by the Tribal social services department.

No child who is determined to be a youth-in-need-of-care shall be detained in a detention facility or in jail.

14.126 Investigation And Recommendations By The Caseworker:

- (1) Investigation. The caseworker shall investigate within forty-eight (48) hours of the preliminary inquiry or release of the minor to determine whether the interests of the minor and the Tribe require that further action be taken.
- (2) Recommendations. Upon completion of the investigation, the child welfare caseworker shall recommend to the presenting officer:
 - (A) No further action be taken;
 - (B) An informal adjustment conference; or
 - (C) A petition be filed.

If the presenting officer does not file a petition, the minor shall be released immediately if in emergency custody and all charges shall be dismissed unless informal adjustment is recommended, in which case the matter shall proceed as required by this Chapter.

14.127 Informal Adjustment Conference:

- (1) When permitted. Within ten (10) days after the preliminary inquiry, the caseworker may hold an informal conference with the minor and the minor's parent, guardian, custodian or legal representative to discuss alternatives to the filing of a petition

if

- (A) The admitted facts bring the case within the jurisdiction of the Court;
- (B) An informal adjustment of the matter would be in the best interests of the minor and the Tribe; and
- (C) The minor and his or her parent, guardian, custodian or legal representative consent to an informal adjustment with knowledge that the consent is voluntary.

(2) Alternatives. As a result of the informal adjustment conference, the caseworker may:

- (A) Refer the minor and the parent, guardian or custodian to a community agency for needed assistance;
- (B) Order terms of supervision, calculated to assist and benefit the minor, parents, guardian or custodian which regulate the activities of the minor and his or her parents, guardian or custodian and which are within their ability to perform;
- (C) Accept an offer of restitution if voluntarily made by the minor and appropriate; or
- (D) Recommend that the presenting officer file a petition pursuant to this Chapter if it appears that no other alternative will be in the best interests of the minor and of the Tribe.

(3) Written Agreement

- (A) Content. The caseworker shall set out in writing the agreement and conclusions reached at the informal adjustment conference. The parties shall sign the agreement and be provided with a copy. An informal adjustment agreement shall not exceed (6) months in length, except that the time period may be extended upon order of the Court.
- (B) Review period. The caseworker shall review the family progress every thirty (30) days. If, at any time after the initial thirty (30) day period but before the end of the six (6) months, the caseworker concludes that the agreement as it is being followed is not serving the best interests of the child, the caseworker shall recommend that the presenting officer file a petition pursuant to this Chapter.
- (C) Acceptance by Presenting Officer. The informal adjustment agreement shall be reviewed by the presenting office after it is signed by the parties. The presenting officer shall accept or reject the agreement within five (5) days. If the

agreement is rejected, the presenting officer shall make written comments indicating that conditions are necessary for the agreement to be accepted. The parties shall be informed at the start of any informal adjustment negotiation by the caseworker that the presenting officer has the authority to review and approve any agreement which is reached.

(D) Notice to the Court. The presenting officer shall file a copy of the approved informal adjustment agreement with the Court.

(E) Disposition Upon Completion of Agreement. If the informal adjustment agreement is followed and the caseworker does not recommend the filing of a petition during the informal adjustment period, the presenting officer shall dismiss the petition at the end of the agreement.

(4) Use of Statements Made: No statements made during the informal adjustment conference, whether written, oral or demonstrative, may be used against the minor or any of the parties or witnesses if a petition is filed.

14.128 Petition Process:

(1) Petition: The petition shall be prepared as required by the Rules of Court.

(2) Notice: Notice of a hearing on the petition, or on any matter related to the petition or the minor, shall be given to the parties as required by the Rules of the Court.

(3) Summons: Summons on the petition shall be issued and served as required by the Rules of the Court.

(4) Hearings: An adjudicatory hearing shall be held within thirty (30) days after the petition is filed, except upon order of the Court. The Court shall conduct the hearing for the purpose of determining if a minor is a youth-in-need-of-care. A finding by the Court that a minor is a youth-in-need-of-care shall be considered to be a final order for purposes of appeal. If the Court finds that the minor is a youth-in-need-of-care, the Court shall determine the placement of the child in a manner consistent with the child's best interests and which is the least restrictive setting for the child, pursuant to Section 5.08 of this Chapter.

DISPOSITION AND PLACEMENT PROVISIONS

Section:

- 14.129 Policy: Requirements For Removal Of Child From Home
- 14.130 Pre-Dispositional Report
- 14.131 Dispositional Hearing
- 14.132 Disposition Of A Youth-In-Need-Of-Care
- 14.133 Disposition Of Juvenile Offender
- 14.134 Conditions Set By The Court
- 14.135 Off Reservation Agreements
- 14.136 Periodic Review Of Placement; Periodic Review
- 14.137 Permanency Planning Hearing; Disposition
- 14.138 Procedures For Placement Review Hearings
- 14.139 Periodic Reviews After Permanency Planning Hearing
- 14.140 Permanency Planning Hearing Not Required
- 14.141 Notice Of Change In Child's Placement
- 14.142 Tribal Social Services Department's Duties For
Long-Term Placement; Reports And Recommendations
- 14.143 Confidentiality Of Tribal Social Services
Department Records
- 14.144 Continuing Jurisdiction

14.129 Policy: Requirements For Removal Of Child From Home: The removal of a child from his or her home for foster care placement, termination of parental rights or long-term placement must result from a judicial determination that continued custody would be contrary to the health and welfare of such child. Reasonable efforts shall be made before foster care placement, termination of parental rights and long-term placement to prevent or eliminate the need to remove the child from his or her home, and reasonable efforts are to be made to make possible the child's return to his or her home provided, however, that nothing in this Section shall prevent the emergency removal of a child as allowed by this Chapter. Where more than one child is removed from a home, it shall be the Tribe's policy to keep all the children so removed in one placement or shelter.

14.130 Pre-Dispositional Report:

(1) Preparation. The Court shall order the caseworker to prepare a report to the Court for the disposition of a child who is a juvenile offender or a youth-in-need-of-care if the Court determines a report is necessary. The pre-dispositional report shall be filed at least five (5) days before the dispositional hearing, except by order of the Court. The report shall contain a specific plan for the care and assistance to the minor or his or her parents, guardian or custodian which is calculated to resolve the problems presented in the petition which are the least restrictive to the minor and consistent with the Tribe's child's best interests.

(2) Additional Report s. Copies of the pre-dispositional reports shall be made

available to the minor, the parents, guardian, custodian or legal representative at least two (2) days before dispositional hearing. Any party may submit a separate pre-dispositional report to the Court in the same time period set out in this subsection.

14.131 Dispositional Hearing:

(1) Time Limits. The dispositional hearing shall be held within twenty (20) days of the hearing on the petition for the purpose of determining the proper disposition of the minor, except upon order of the Court.

(2) Exceptions. Upon request of any of the parties or of the presenting officer, or if the Court determines that this would be in the best interests of the child, the Court may hold a dispositional hearing immediately after the adjudicatory hearing on the petition. This petition shall only be used in extraordinary circumstances.

14.132 Dispositional Of A Youth-In-Need-Of Care: Upon making a finding that a minor is a youth-in-need-of-care, the Court may make any of the following dispositions, listed in order of priority:

(1) Permit the minor to remain with his or her parents, guardian or custodian under protective supervision subject to such limitations and conditions as the Court may prescribe;

(2) Place the minor with an extended family member under protective supervision within the boundaries of the Reservation subject to such limitations and conditions as the Court may prescribe;

(3) Place the minor in a foster home under protective supervision on the Reservation which has been licensed or approved by the Tribal social services department, subject to such limitations and conditions as the Court may prescribe.

(4) Place the minor in a residential facility under protective supervision as designated by the Court.

(5) Place the minor in a foster home or an extended family member's home approved by the Tribal social services department outside the Reservation, subject to such limitations and conditions as the Court may prescribe;

(6) Transfer legal custody to an agency responsible for the care of youth-in-need-of-care children, or to an extended family member or other person who the Court finds to be qualified to receive and care for the child, subject to such limitations and conditions as the Court may prescribe;

(7) Recommend that termination proceedings be initiated;

- (8) Recommend that either full or partial emancipation be ordered; or
- (9) Place the child in a long-term placement, including consideration of guardianship as an alternative to adoption or termination of parental rights.

14.133 Dispositional of Juvenile Offender: If a minor has been adjudged a juvenile offender, the Court may make any or all of the following dispositions:

- (1) Any disposition that is authorized for the disposition of a youth-in-need-of-care;
- (2) Place the minor on probation subject to conditions set by the Court;
- (3) Place the minor in an institution or agency designated by the Court,
- (4) Place the minor in a detention facility;
- (5) Require the minor to make restitution; or
- (6) In cases of violations of traffic laws or ordinances, the Court may, in addition to any other disposition, restrain the child from driving for such period of time as the Court deems necessary, and may take possession of the child's driver's license.

14.134 Conditions Set By The Court: The conditions or limitations which the Court may set upon a child, his or her parent, guardian, custodian or any other party pursuant to this Code shall be designed to improve the condition of the child if he/she is found to be youth-in-need-of-care or the behavior of the child if he/she is found to be a juvenile offender. Such conditions or limitations include but are not limited to: counseling or therapy; restriction on visits with one or both parents; payment of support or other necessary costs; attendance at school; participation in tribal-sponsored activities; restrictions on associations; curfew; or any other dispositions as set out in this Chapter.

14.135 Off Reservation Agreements: Whenever a minor is placed in a home or facility located off the Tribe's Reservation, the Court shall require the party receiving custody of the minor to sign an agreement that the minor will be returned to the Court upon Court Order, and submitting to tribal jurisdiction. Absent such a signed agreement, any person or institution shall be deemed to have consented to return such child to the Court by virtue of having taken placement under this Chapter, and to have consented to tribal jurisdiction for purposes of the child.

14.136 Periodic Review Of Placement; Periodic Review: Within six months of the original dispositional hearing and each six (6) months thereafter so long as a child remains within the jurisdiction of the Court, the child is in short term or temporary care, or the child is in a placement not within the preferences of this Ordinance, the status of a child will be reviewed by the Court to:

- (1) Determine the continuing need for appropriateness of Court jurisdiction and of the placement;
- (2) Determine the extent of compliance with the case plan;
- (3) Determine the extent of progress made toward easing or lessening the cause requiring the placement in foster care; and
- (4) Project a likely date by which the child may be returned home or placed for adoption or legal guardianship.

The Court at the periodic review may consider any recommendations on these issues by the Tribal Social Services Department, or the Administrative Review Panel, if appropriate. An interested party may request a dispositional review at any time, and such review shall be granted at the discretion of the Court. A dispositional order is a final order for purposes of appeal.

14.137 Permanency Planning Hearing; Disposition: Within 18 months of the original placement and every six (6) months thereafter, the Court shall hold a permanency planning hearing in accordance with this to determine the long-term status of the child. Recommendations made by the Social Services Department shall be presented to the Court at this hearing and the Court shall decide if the recommendations shall be followed. The permanency planning hearing may be combined with the periodic review. The Court may order, but not be limited to, any of the following dispositions:

- (1) Returning the child to the parent(s);
- (2) Ordering that a guardian be appointed and placing the child with the guardian;
- (3) Continuing the child in foster care for a specific period,
- (4) Continuing the child in foster care on a permanent long-term basis; and
- (5) Recommending parental rights be terminated and the child placed for adoption.

14.138 Procedures For Placement Review Hearings: The Court shall return a child to the physical custody of the parent or guardian unless by a preponderance of evidence it finds that returning the child would cause a substantial risk to the physical or emotional wellbeing of the child. The Tribal Social Services Department has the burden of proving the risk. The Court shall review the Social Services and California Child Protection Services reports, if appropriate, and consider any other evidence and testimony including the parent or guardian's treatment or efforts at rehabilitation. The Court also may order additional services which will facilitate the return of the minor to the custody of his/her parent or guardian.

14.139 Periodic Reviews After Permanency Planning Hearing: Periodic reviews conducted by the Court after the initial permanency planning hearing shall determine the appropriateness of the placement, and continued appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child. By the end of the 18th month of foster care, a decision regarding the long-term placement of the minor shall be made, except by order of the Court.

14.140 Permanency Planning Hearing Not of Required: Subsequent permanency planning hearings need not be held if

- (1) The child has been adopted;
- (2) The child is a ward on a guardian; or
- (3) The child is in long-term foster placement intended to be permanent in nature, provided the initial dispositional hearing required under this Ordinance has been held, and provided further the Tribal Court explicitly orders that no further permanency planning hearings are required.

14.141 Notice Of Change In Child's Placement: The removal of the child from the parent's home, change of the child's placement or a determination affecting a parent, guardian, or custodian's legal right to custody of a child shall require notice of such change to the parties, and a review hearing shall be conducted on such change upon the written request of any party.

14.142 Tribal Social Services Department's Duties For Long-Term Placement: Reports And Recommendations: The Tribal Social Services Department shall have the duty to recommend long-term options for a minor within the jurisdiction of the Court. The caseworker shall submit a report at least five (5) days before the periodic review hearing conducted before the Tribal Court. This report shall discuss compliance with the placement preferences of the Tribe, the long term prospects of reuniting the child with his or her family, the placement options available to the child, and the caseworkers recommendations as to which placement would serve the best interests of the child.

14.143 Confidentiality Of Tribal Social Services Department Records: All records of the Tribal Social Services Department regarding placement of a child within the jurisdiction of the Court under this Ordinance are confidential and shall be made available only to the Court or a party and a legal representative, and the minor's parent, guardian, or custodian, or to other persons the Court determines has a valid reason to seize such records.

TERMINATION OF PARENTAL RIGHTS

Sections:

14.144	Purpose
14.145	Enrollment And Inheritance Status
14.146	Grounds For Non-Voluntary Termination
14.147	Petition
14.148	Notice of Hearing
14.149	Summons
14.150	Reports
14.151	Appointment Of Counsel Or Guardian Ad Litem
14.152	Hearing
14.153	Judgment
14.154	Appeal
14.155	Voluntary Termination Of Parental Rights

14.144 **Purpose:** The purpose of this Chapter is to provide for voluntary or non-voluntary termination of the parent-child relationship by Court order. Non-voluntary termination of parental rights over a child is a serious matter and an action that the Court may take only after all remedies have been exhausted in the attempt to maintain the stability of the family or to maintain a minimum level of positive contact between the child and his or her family, including extended family.

It is the further purpose of this Chapter to provide meaningful and clear standards to be applied to cases involving termination of parental rights and to ensure competent, stable and ongoing care of the child by prompt and final adjudication.

14.145 **Enrollment And Inheritance Status:** No adjudication of termination of parental rights shall affect a child's enrollment status as a member of the Tribe or a child's degree of blood quantum or a child's rights of inheritance from natural parents, or a child's relationship with extended family members, where appropriate.

14.146 **Grounds For Non-Voluntary Termination:**

(1) **Termination Allowed:** The Court may terminate a parent's rights when the Court finds beyond a reasonable doubt that the parent is (1) unfit; or (2) the conduct or condition of the parent is such as to render him or her unable to care for the child and such conduct or condition is unlikely to change within one (1) year; and continued contact between the child and the parent on any basis is not in the child's best interest.

(2) **Factors to be Considered:** In determining unfitness, conduct or condition, the Court shall consider, but is not limited to, any of the following:

(A) The parent has abandoned the minor; or

- (B) Emotional illness, mental illness or mental deficiency of the parent is of such duration or nature as to render the parent unable to care for the ongoing physical, mental and emotional needs of the minor within one (1) year from the date of determination of illness, or
 - (C) Abuse of neglect of the minor as defined by this Chapter 5; or
 - (D) Excessive use of intoxicating liquors or illegal substances over a period of one (1) or more years; or
 - (E) Imprisonment of a single parent for a period of one (1) or more years; or
 - (F) Adjudication by a Court of a plea of guilty by a parent to the charge that the parent, either intentionally or (recklessly, willfully or wantonly) caused the death or injury of a minor's sibling; or
 - (G) Failure of the parent to provide a home or reasonable substitute physical care and maintenance where custody is lodged with others; or
 - (H) Failure of the parent to maintain regular visitation or other contact with the child as designated in a plan to reunite the child with the parent; or
 - (I) Failure of the parent to maintain consistent contact or communication with the child over a period of one (1) year; or
 - (J) Rehabilitation of the parents has been unsuccessful.
- (3) Parent Unknown - The rights of the parent may be terminated as provided herein if the Court finds the child was left under such circumstances that the identity of the parent is unknown and cannot be ascertained, despite diligent searching, and the parent has not come forward to claim the child within six (6) months following the finding of the child.
- (4) Best Interests of Child - In considering terminating the rights of a parent, the Court shall give primary consideration to the best interests of the child as shown by physical, mental and emotional condition and needs.

14.147 Petition: The petition shall be prepared as required by this Chapter 5, and in conformity with the rules of the Tribal Court.

14.148 Notice of Hearing: Notice of hearing shall be given to all parties as required by this Chapter 5, and in conformity with the rules of the Tribal Court.

14.149 Summons: Summons shall be issued and served as required by this Chapter 5, and in accordance with the Rules of the Tribal Court.

14.150 Reports:

(1) Time Limit The child welfare caseworker shall prepare and present a written report to the Court at least ten (10) days before the termination of parental rights hearing.

(2) Contents The report shall contain the opinions of all professionals consulted with recommendations to the Court and the social history of the parent and child and all other pertinent facts.

(3) Copies A copy shall be available to the parent whose rights are being terminated at least ten (10) days before the hearing.

(4) Additional Reports

(A) A parent whose rights are being terminated may also file a written report. A copy shall be made available to the presenting officer at the same time it is filed with the Court.

(B) The Court may also order other individuals or agencies to submit written reports. All reports shall be filed ten (10) days prior to the hearing and shall be made available to the parent whose rights are being terminated at the same time they are filed.

14.151 Appointment Of Counsel Or Guardian Ad Litem: In any proceeding for non-voluntary termination of parental rights, or any rehearing or appeal thereon, the Court may appoint an advocate to represent the child as counsel or guardian ad litem if the Court determines that the interests of the child are not being represented by any of the parties in the proceeding, in the Court's discretion. The Court may appoint a guardian ad litem in a voluntary termination of parental rights proceedings.

14.152 Hearing:

(1) Time Limit; Purpose A termination of parental rights hearing shall be held within thirty (30) days after a petition is filed for the purpose of determining whether grounds for termination exists as set out in this Chapter 5, except by order of the Court.

(2) Witnesses The Court shall subpoena experts who have knowledge of the particular case, including physicians, psychiatrists, mental health professionals, social workers and any individual from the community cognizant of the traditional child-rearing methods and attitudes of the Tribe. The Court may subpoena any other witnesses or persons who the Court finds have a direct interest in the cases. If the proposed witnesses

are not subject to tribal subpoena, the Court may request that they appear and testify, or obtain a subpoena from the nearest Court with jurisdiction over such witnesses.

(3) Conduct The hearing shall be conducted in accordance with this Chapter 5.

14.153 Judgment: If parental rights to a child are terminated, the Court shall issue a judgment detailing its decision, the reasons for the decision, and order the disposition of the minor as follows:

- (1) Place the minor with an extended family member; or
- (2) Place the minor in a foster care or shelter care facility which has been approved by the Tribe; and in either case
- (3) Place the child in Tong-term placement, and proceed to the adoption section of this Chapter 5 if appropriate.

14.154 Appeal: A judgment of non-voluntary termination of parental rights is a final order for purposes of appeal.

14.155 Voluntary Termination Of Parental Rights:

(1) Initial Procedures The Court may terminate parental rights when the parent desires to voluntarily give up such rights. In assuming jurisdiction of a voluntary termination of parental rights proceeding, the Court shall require that:

- (A) No voluntary termination shall occur before a child is ten (10) days old, except by order of the Tribal Court;
- (B) No voluntary termination shall occur until a written report is submitted to the Court by a recognized social services agency indicating that social services and counseling have been offered to the parent, the consequences of the parent's actions have been fully explained to and are understood by the parent, and such action is in the best interests of the child; or
- (C) A parent may waive in writing, before a Judge of the Court, the right to appear at a hearing, the right to notice of hearing, or both, and the Court shall assure that such waiver is knowing and voluntary.

(2) Counsels In any proceeding for voluntary termination of parental rights, if the Court has reasonable doubt as to the emotional state of the petitioner or the petitioner's ability to understand the consequences of his or her decision, the Court shall place the child with the Social Services Department for a period not to exceed thirty (30) days in order to allow the parent to consider the decision. Further, the Court shall order legal and psychological counseling for the parent in order to assure the parents understanding of

the consequences of the decision and a report of the results of such counseling shall be made to the Court.

(3) Procedures after Counseling Immediately after the end of the thirty (30) day period, based upon the report received by the Court, the Court shall either:

(A) Return custody of the child to the parent;

(B) Process the petition for voluntary termination of parental rights; or

(C) Extend the period for no more than thirty (30) additional days to allow additional counseling. At the expiration of the additional counseling and based upon the results of the counseling reports, the Court shall proceed as allowed by this Chapter 5. Any child freed for placement through voluntary consent to termination of parental rights shall be placed according to the provisions of this Chapter 5.

LONG-TERM PLACEMENT PROVISIONS

Sections:

14.156 Guardianship

14.157 Adoption

14.156 Guardianship :

(1) Policy: It shall be the policy of the Hopland Band of Pomo Indians to prefer guardianship as a long-term placement option for tribal children over adoption, and to prefer guardianship as an option over long-term foster care.

(2) Power to Appoint Guardians for Minors exception: The Tribal Court is empowered to appoint a guardian, either for the person or the estate or both, subject to the requirements of other ordinances of the Tribe, except that appointment of a guardian ad litem shall not be subject to these requirements.

14.157 Adoption:

(1) Who may Adopt and Under What Conditions:

(A) Polite: It is the policy of the Hopland Band of Pomo Indians that its children should be adopted only as a matter of last resort, and alternative long-term placements such as guardianship and long-term foster placement should first

be considered which maintain the connection between the child and the parent and family. A decree of adoption shall not terminate the legal relationship between the child and the child's natural family members, except by order of the Court.

(B) Who LlaAdopt - The following persons may adopt--

1. Any adult may file a petition to adopt;
2. In the case of married persons maintaining a home together, both spouses shall be petitioners except that, if one of the spouses is the natural parent of the minor to be adopted, the natural parent shall not be a party to the petition.
3. A married person legally separated may adopt without the consent of his/her spouse.

(C) Conditions to Adoption

The welfare of the child shall be primary;

2. Except for good cause shown to the contrary, a person adopting shall be at least 10 years older than the minor;

(D) Order for Preference for Adoption: Preference in adoption shall be given in the following order:

1. Tribal member adoptive parents - at least one person of any adoptive couple must be a tribal member;
2. Families in which one person is a Tribal member or can prove descendants from a Tribal member;
3. Indian adoptive parents, which means that at least one person of any adoptive couple must be a member of or eligible for membership with a federally recognized tribe;
4. Non-Indian adoptive parents.

(2) Who May Be Adopted: The following persons may be adopted under this Chapter 5.

- (A) A minor subject to the jurisdiction of the Hopland Tribal Court.

(B) An adult whose parents are both dead and who is subject to the jurisdiction of the Hopland Tribal Court.

(C) An adult whose parent is dead, who is being adopted by his or her step-parent and who is subject to the jurisdiction of the Hopland Tribal Court.

(3) Petition: A petition for adoption shall be filed with the Court. It shall be verified under oath by the adoptive parent(s) and shall contain:

(A) The full name, residence, place of birth, date and sex of the child, with attached documentary proof of the date and place of the birth of the child to be adopted.

(B) Documentary proof of the child's membership status in the Tribe, if such proof exists,

(C) The full name, residence, date and place of birth, occupation of the adoptive parent(s), statement of relationship to the child, and documentary proof of marital status, provided, however, nothing in this section shall not be interpreted to prohibit single parent adoptions, and tribal membership or Indian status;

(D) proof of parental consent to the adoption where the petitioners are relatives of the child by blood or marriage; except where the natural parents have abandoned the child and cannot be located or where there is proof of a Court order terminating parental rights of the parents to said child.

(E) An agreement by the adopting parent of the desire that a relationship of parent and child be established between them and the child;

(F) A full description and statement of value of all property owned, possessed or held in trust by and for the child.

(G) A citation to the specific section of this Chapter 5 giving the Court jurisdiction of the proceedings; and

(H) A brief and concise statement of the facts which may aid the Court in its determination.

(4) Investigative Report

(A) Role of Tribal Caseworker - The caseworker shall prepare and present to the Court a report within 60 days of the filing of a petition for adoption or a supplemental report as ordered by the Court as to the suitability of the child for

adoption, as well as to the financial, moral, physical fitness, general background of the adoptive home, and adoptive parent or parents. A home study shall be conducted as part of this procedure. The tribal caseworker shall contact appropriate agencies and individuals who have relevant knowledge and such contacts and relevant information shall be included in the report. The tribal caseworker shall make written recommendations on the proposed adoption.

(B) Other Agencies, Individuals - The Court may also order other appropriate agencies or individuals to prepare and file written reports with the Court to aid in the Court's determination on the suitability of the proposed adoption.

(C) Copies - Copies of reports shall be served on petitioner at the same time they are presented to the Court.

(5) Consent to Adoption

(A) When Required - Written consent to adoption is required of

1. Each biological, adoptive and acknowledged parent whose parental rights have not been involuntarily terminated, who has not voluntarily terminated his or her parental rights or has not been declared incompetent;

The guardian or custodian, if empowered to consent;

3. The Court, if the guardian or custodian is not empowered to consent; and

4. The minor, if he or she is over twelve (12) years of age.

(B) When Not Required - Written consent to an adoption is not required if:

1. The parent's rights have been involuntarily terminated;
2. The parent has voluntarily terminated his or her parental rights; or
3. The parent has been declared incompetent.

(6) Procedure for Signing the Consent to Ado : Written consents, where required by this Chapter, shall be attached to the petition for adoption. Written consent to an adoption shall be signed and acknowledged before a Notary Public. Consent shall not be accepted or acknowledged by the Court unless signed and acknowledged more than ten (10) days after the birth of the child, except by order of the Court. An interpreter shall be provided if required by the Court. The Court shall have authority to inquire as to the circumstances behind the signing of a consent under this section.

(7) Withdrawal of Consent to Adopt: Written consent cannot be withdrawn after the entry of a final order of adoption. Consent may be withdrawn prior to the final order of adoption upon a showing based upon a preponderance of the evidence at a hearing before the Court that consent was obtained by fraud, duress or coercion, or the best interests of the child require the consent to adoption be voided.

(8) Hearing on Adoption

(A) Purpose/Time Limit - A hearing shall be held within 90 days of receipt of an adoption petition to determine if it is in the minor's best interest to be placed with petitioners.

(B) Procedure at Hearing - Adoptive parent or parents shall appear personally at the hearing. At or before the hearing, any biological, adoptive or acknowledged parent consenting to the adoption must appear personally before the judge, in open Court so the Court can determine the voluntariness and understanding with which consent was given, if the Court determines the validity of the consent is an issue. All other persons whose consent is necessary shall be duly notified and shall personally appear, if the Court determines the validity of the consent is at issue.

The judge shall examine all persons appearing as to the suitability of the child for adoption, the validity of consent to adoption, the financial, moral and physical fitness, responsibility of the adoptive parents, and whether the best interests of the child will be promoted by the adoption.

The Court shall also hear natural extended family members to decide whether the child's legal relationship to the extended family should be terminated.

(9) Order

(A) Granting the Petition - If the Court is satisfied that it is in the best interest of the child to grant the petition, the Court may enter a final decree of adoption as follows:

1. In the case of a child who has lived with the adoptive parent for more than one year before the adoption petition was filed, the final decree of adoption shall be entered immediately; and
2. In all other cases, the Court shall order that the child be placed in the legal custody of the adoptive parent for at least one year; at that time, the Court shall request a supplemental report, and if the Court determines that the best interests of the child are served, shall enter the final decree of adoption immediately.

(B) Contents of Adoption Order - The final order of adoption shall include such facts necessary to establish that the child is eligible and suitable for adoption, and that the adoptive home and parents are adequate and capable of providing the proper care of the child, as shown by the investigation reports and the findings of the Court upon the evidence produced at the hearings.

(C) Denying the Petition - If satisfied the adoption petition will not be in the best interests of the child, the petition shall be denied. The Court may request the Tribal Social Services Department or other agencies authorized to provide such services to assist in the placement and care of the child. Where the Court finds the best interests of the child will not be served by the adoption, a guardian shall be appointed and suitable arrangements made for the care of the child in accordance with the applicable provisions of this Chapter 5.

(1) Adoption Records

(A) Confidentiality - All records, reports, proceedings and orders are confidential, permanent records of the Court, shall be sealed and shall not be available for release for inspection by the public, except by Order of the Court.

(B) Release of Information, Notice to Biological Parent: Information contained in such records shall be released upon petition to the Court by the adopted person after reaching legal age or majority, or upon order of the Court upon showing of good and sufficient cause by persons other than the adopted person who have petitioned for such information. In either case, no information shall be released unless:

1. The biological parent(s) has been given actual and confidential notice by the Court of a petition for release of information or notice of intent to issue such information has been published in a local newspaper of general circulation without revealing the name of the biological parent; and
2. The biological parent has consented in writing before the Court to release information; the Court determines the need for information is greater than the parent's right to privacy. The Court may refuse to divulge the biological parent's name but release other information so long as the information will not lead to the discovery of the parent's name.

(11) Adoptive Birth Certificates-, Release of Original Certificate: Within five (5) days of the final decree of adoption entered by the Court, the Division of Vital Statistics of the State Department of Health of the State which issued the original certificate of birth shall be notified by the Clerk of the Court that the adoption has taken place, giving the full

name, sex, birthday and names of natural parents, in order that a new record of birth in the new name and with the name or names of the adopting parents to be recorded, said Division shall be provided with a certified copy of the final decree of adoption.

(12) Name of Legal Status of Adopted Child: Minor children adopted by order of the Court shall assume the surname of the persons by whom they are adopted, unless the Court orders otherwise. They shall be entitled to the same rights as natural children of the persons adopting them. However, adoption does not confer tribal membership status on adopted children who would not be otherwise eligible. Adoption does not terminate the rights of natural extended family members of the child, as a group, except by Order of the Court.

TRANSFER OF JURISDICTION

Sections:

- 14.158 Policy
- 14.159 Procedure For Transfer Of Jurisdiction
- 14.160 Requesting Transfer Of Jurisdiction
- 14.161 Procedure Upon Acceptance of Transfer of Jurisdiction
- 14.162 Petition For Transfer of Jurisdiction By Party
Other Than The Tribe

14.158 Policy: It shall be the policy of the Tribe to request transfer of child custody proceedings taken place in state Court under the Indian Child Welfare Act (ICWA) involving a Hopland Child, as that term is defined in this Chapter 5, except when good cause exists to the contrary. This Chapter 5 contemplates the following procedure will be followed in transferring jurisdiction of child custody proceedings from State to Tribal Court: a decision by the Tribe to request transfer; a petition to the State Court requesting transfer pursuant to the ICWA; a petition for acceptance of jurisdiction by the Tribal Court; and acceptance of jurisdiction of the state Court proceeding by the Hopland Tribal Court. If a question exists as to whether the Tribal Court will accept jurisdiction of a particular child custody proceeding, the Tribe may request an advisory opinion from the Tribal Court, before petitioning the state Court for transfer of jurisdiction as set out below.

14.159 Procedure For Transfer Of Jurisdiction:

(1) Assessment of Case by Social Services Department Recommendation: Upon receipt of notice of an child custody proceeding governed by the ICWA in State Court, or upon receiving notice in any other form as a Hopland Child is involved in a child custody proceeding as defined by the Indian Child Welfare Act before a state Court, the Tribal Social Services Department shall prepare an assessment of the child and family's situation, and shall make a written recommendation as to whether the case should be

transferred from state Court to the jurisdiction of the Hopland Tribal Court. This assessment shall be prepared within twenty (20) days of receiving notice that a Hopland child is involved in a state Court ICWA proceeding.

(2) Factors to be Considered in Recommendation: The Social Services staff recommendation to transfer jurisdiction to the Tribal Court shall consider, among other factors, the following: age of the child and circumstances of the family, special needs of the child (if any), location of the family and whether the state is attempting to reunite the family, availability of Tribal services to serve the child's particular needs, availability of suitable Hopland tribal homes for placement of the child, whether financial assistance for the care of the child will continue if jurisdiction is transferred, and the cost to the Tribe in legal fees to accomplish transfer of jurisdiction.

(3) Committee to Review Recommendation and Determine Whether or not to Request Transfer: The recommendation of the Social Services staff shall be reviewed by the ICWA Transfer Committee. The ICWA Transfer Committee shall be composed of the Social Services Director, Tribal Attorney, and Tribal Secretary, who shall decide by majority vote whether a request shall be made to transfer jurisdiction of the proceeding to the Hopland Tribal Court. The ICWA Transfer Committee shall have the sole authority to determine whether or not the Tribe will request transfer of jurisdiction to the Tribal Court in a particular case. The Committee's decision in each case shall be reduced to writing and signed by all three Committee members, and shall be the Tribe's request or denial. The Committee may reconsider its decision not to request a transfer at any time new information is obtained, or if circumstances change. The Committee may request transfer of a proceeding for payment purposes only.

14.160 Requesting Transfer of Jurisdiction:

(1) Petition for jurisdiction to State Court. After a vote by the ICWA Transfer Committee, the Tribe shall prepare a petition for transfer of jurisdiction and shall present such petition to the state Court having jurisdiction over the Hopland Child in question. The petition shall be presented by the Tribe's legal counsel or the Tribe's social services staff. The petition for transfer shall state that upon granting the petition for transfer, the Tribe shall petition the Tribal Court for acceptance of jurisdiction, and tribal jurisdiction shall be accepted unless affirmatively declined by order of the Tribal Court.

(2) Petition for acceptance of tribal Court jurisdiction. Concurrently upon petitioning the state Court for transfer of jurisdiction of a child custody proceeding of state Court involving a Hopland Child, the Tribe shall petition the Tribal Court for acceptance of jurisdiction of the proceeding. The petition for acceptance shall be in a form prescribed by the Court. Upon ruling affirmatively on the Tribe's petition for acceptance of jurisdiction, the Tribal Court shall enter an order accepting transfer of jurisdiction and an order directed to the state Court to transfer its files to the Tribal Court.

(3) Notice to the Standing of Other Parties. The Tribal Court shall give notice to all parties to the state Court proceeding of the filing of a petition for acceptance of transfer of jurisdiction, by certified mail. All parties to the state Court proceeding shall be granted standing to express their views as to whether transfer of jurisdiction should be accepted or declined. Notice to the state Court parties shall include the date, time and place for the petition for acceptance hearing, and a brief explanation of the subject of the hearing.

(4) Conditions upon Acceptance of Transfer of Jurisdiction. The Tribal Court may impose conditions for acceptance of transfer of jurisdiction of a state Court child custody proceeding. For example, if witnesses who can testify as to a Hopland Child's dependency or neglect are beyond the Tribal Court's subpoena and jurisdictional authority, the Tribal Court may conditionally transfer upon the state Court's willingness to enforce tribal subpoenas and order state employees to testify in the subsequent Tribal Court proceeding. If the conditions are imposed, the Tribal Court acceptance of jurisdiction order shall be presented to the state Court which originally transferred jurisdiction, for its review and reaffirmation.

(5) Declination of jurisdiction. The Tribal Court may decline to accept the transfer of jurisdiction order entered by the state Court if it finds good cause to deny such transfer. Denial of transfer must be based upon clear and convincing evidence that such transfer would not be in the best interest of the Tribe, family, or child. In making its determination, the Court may examine, but not be limited to, the following factors:

(A) Emotional, cultural and family ties of the child and family;

(B) Should adjudication be necessary, the ability of necessary witnesses to appear in the Tribal Court.

(C) The ability of the Tribe to provide needed services, including but not limited to counseling, medical treatment, transportation, etc.

14.161 Procedure Upon Acceptance Of Transfer Of Jurisdiction: Proceedings after accepting jurisdiction of a state Court child custody proceeding involving a Hopland Child shall take place pursuant to the applicable sections of this Chapter 5. Upon acceptance of jurisdiction, the Tribal Court shall schedule a status hearing within thirty (30) days to conduct an initial review of the proceeding and to order appropriate changes in placement of the child or changes in the family's case plan, or enter other such orders as may be appropriate. Further proceedings shall take place according to relevant sections of this Chapter 5.

14.162 Petition For Transfer Of Jurisdiction By Party Other Than The Tribe:

(l) Party to File Petition. If the parent or custodian of a Hopland Child, or the child, through the guardian ad litem petitions a state Court in a child custody proceeding involving a Hopland Child for transfer of jurisdiction to the Tribal Court, such transfer

shall not be effective until acceptance by the Tribal Court. It shall be the duty of the party petitioning the state Court for transfer of jurisdiction to file a petition for acceptance of jurisdiction with the Hopland Tribal Court in the form prescribed by the Court.

(2) Petition to be Referred to Social Services Department; Tribe Granted Automatic Standing. Upon receipt of a petition for acceptance of jurisdiction from an individual, the Tribal Court shall refer the petition for an assessment by the Hopland Social Services Department. The Court shall automatically grant standing to the Tribe as an interested party to express its view on whether the petition for acceptance of jurisdiction should be granted or denied. The social services staff shall have twenty (20) days from the date of referral by the Tribal Court to prepare a written assessment and to submit such assessment to the Tribal Court for its consideration.

(3) Hearing Schedule; Order to be Filed with State Court. A hearing on the petition for acceptance of jurisdiction shall be scheduled at the earliest available time following submission of the Tribe's assessment. If transfer of jurisdiction is granted, the Tribal Court shall enter an order to that effect and shall file a copy of the order and a request that the state Court transfer its files with the state Court which transferred jurisdiction of the proceeding.

JUVENILE OFFENDER PROVISIONS

Sections:

14.163	Taking A Minor Into Custody
14.164	Complaint
14.165	Warrants
14.166	Release Of Minor From Custody
14.167	Delivery Of Minor To Detention Or Shelter Care
14.168	Preliminary Inquiry
14.169	Place of Detention
14.170	Investigation And Recommendations By The Tribal Caseworker
14.171	Informal Adjustment Conference
14.172	Notice of Hearing
14.173	Summons
14.174	Hearing On A Petition (Adjudication)
14.175	Probation Revocation Hearing

14.163 Taking A Minor Into Custody: Law enforcement officers may take a minor into custody if

- (1) The officer has reasonable grounds to believe a delinquent act has been committed in his/her presence and that the minor has committed the delinquent act; or
- (2) A warrant pursuant to this Code has been issued for the minor; or
- (3) The officer has reasonable cause to believe a minor who is subject to the Tribal Court's jurisdiction is leaving the jurisdiction of the Court.

14.164 Complaint:

- (1) Review and Signature on Complaint - The presenting officer shall review complaints.
- (2) Form and Content - The form of complain shall be the form authorized pursuant to the rules of the Tribal Court. It shall state:
 - (A) The specific sections which give the Court jurisdiction; and
 - (B) The code provision which is alleged to have been violated; and
 - (C) The name, age and address of the minor who is subject to the complaint; and
 - (D) Any parties to the allegations; and
 - (E) The facts upon which the allegations are based, including the date, time and location at which the alleged facts occurred; and
 - (F) If the child is in detention or shelter care, the time and date placed in such care and reasons therefore.
- (3) Assistance - The presenting officer may assist in the preparation of any complaint.

14.165 Warrants: Warrants shall be issued in accordance with the Rules of the Court.

14.166 Release Of Minor From Custody:

- (1) Law Enforcement Officer A law enforcement officer taking a minor into custody shall:
 - (A) Give warnings and an explanation of due process rights required by this Ordinance or the Rules of the Court to any minor taken into custody prior to any questioning; and

(B) Release, immediately, the minor to the parent, guardian or custodian and issue a verbal counselor warning as may be appropriate; or

(C) Deliver, immediately, the minor to the tribal caseworker, detention, or shelter care as designated by the Court, or a medical facility if the minor is believed to need prompt medical treatment. If the minor is not delivered to the caseworker, the officer shall immediately notify the caseworker of the circumstances of the custody and location of the minor. All notifications required by this section shall be done immediately, notwithstanding weekends or holidays.

(2) Role of the Caseworker - The caseworker, immediately upon delivery of the minor for custody or notification of custody, shall review the need for detention or shelter care and shall:

(A) Notify immediately the parent, guardian or custodian notwithstanding the fact that custody was taken during the weekend or holidays;

(B) Release the minor to the parent, guardian or custodian unless detention or shelter care is inappropriate pursuant to this section; and

(C) In all cases, the minor shall be released to the parent, guardian or custodian within 72 hours of the time taken into custody unless the Court issues an order requiring that the custody continue.

(3) Exception A minor may not be released if

(A) A Court order forbids release until further order of the Court;

(B) It appears the minor is in immediate danger of physical harm; or

(C) Reasonable cause exists to believe that the minor will run away from the Hopland Indian Reservation.

14.167 Delivery Of Minor To Detention Or Shelter Care: If the parent, guardian or custodian cannot be found, and there is no relative to whom the minor may be released, or if circumstances pursuant to Section 5.06, et. seq. of this Chapter 5 arise, the minor shall be delivered to a place of detention or shelter care designated by the Court and the tribal caseworker immediately shall make arrangements for the temporary care and custody of the minor.

14.168 Preliminary Inquiry:

(1) Purpose The purpose of a preliminary inquiry is to determine the best interest of the minor and the Tribe regarding any action to be taken. In determining the best interest

of the minor, the Court shall examine whether probable cause exists to believe the alleged act was committed and whether continued detention or shelter care is necessary pending further proceedings.

(2) Time Limit

(A) Minor in Custody The preliminary inquiry shall be held within 72 hours of the beginning of detention or shelter care.

(B) Minor Released from Custody The preliminary inquiry shall be held within three (3) days of release of the minor from detention or shelter care.

(C) Minor Never in Custody The preliminary inquiry shall be held within ten (10) days of the filing of a complaint which is not dismissed.

(3) Presence of Minor's Parents, Guardian or Custodian. If the minor's parent, guardian or custodian is not present the Court shall determine what efforts have been made to notify and obtain the presence of the parent, guardian or custodian. If it appears further efforts are likely to produce the parent, guardian, or custodian, the Court shall recess for not more than twenty-four (24) hours and direct the presenting officer to make continued efforts to obtain the presence of a parent, guardian or custodian.

(4) Dismissal of Complaint and Release of Minor If the Court determines there is no probable cause to believe the minor has committed the alleged act, the complaint shall be dismissed without prejudice and the minor released.

(5) Release from Custody If the Court determines there is probable cause to believe the minor has committed the alleged act but the minor is not in need of detention or shelter care, the minor shall be released to the custody of the parent, guardian or custodian pending final disposition of the matter. Otherwise, the minor shall remain in custody until further order of the Court.

(6) Criteria for Detention or Shelter Care The Court may order detention or shelter care or order it to continue if the Court finds probable cause exists to believe the minor committed the alleged act, such detention or shelter care is in the best interest of the child and:

(A) The act is serious enough to warrant continued detention or shelter care; or

(B) There is reasonable cause to believe the minor will run away so that he or she will be unavailable for further proceedings;

(C) There is reasonable cause to believe that the minor will commit a serious act causing damage to a person(s) or property; or

(D) There is reason to believe the child cannot be controlled by his or her parent, guardian or custodian.

(7) Plea and Disposition - A minor may admit or deny that he or she committed the alleged illegal act at this inquiry. If the minor denies committing the act, the Court shall proceed as directed in this Chapter 5. If the minor wishes to admit he or she committed the alleged act, the Court must first determine that:

(A) The minor has a full understanding of his or her rights under this Chapter 5; and

(B) The minor has full understanding of the consequences of admitting that he/she committed the alleged act; and

(C) The minor has not stated any facts that would be a defense.

If the Court determines the minor does not understand his/her rights, the consequences of admitting committing the alleged act or the minor has stated a defense, the Court shall order the case to proceed as a youth-in-need-of-care. If the Court determines the minor understands his/her rights, the consequences of admitting committing the alleged act, and has not stated a defense, the Court may proceed to the dispositional hearing as allowed by this Chapter 5.

14.169 Place of Detention:

(1) Place of Detention A minor alleged to be a juvenile offender may be detained, pending a Court hearing, in the following places:

(A) A foster care facility licensed or approved by the Tribal Social Services Department;

(B) A detention facility approved by the Tribal Social Services Department; or

(C) A private family home on the Reservation approved by the Tribal Social Services Department; or

(D) A facility outside the Reservation that has been approved either by the state in which it is located or the Tribal Social Services Department.

(2) Exceptions An alleged juvenile offender who is sixteen (16) years of age or older may be detained in a jail or a facility used for the detention of adults only if

(A) He or she is charged with an offense which would subject him or her to jail sentence if he or she were an adult;

(B) A facility in Section 5.16(g)(1) is not available or would not assure

adequate supervision of the minor;

(C) Detention is in a cell separate but not removed from sight and sound of adults whenever possible and the cell is certified by the safety officer as safe for holding minors; and

(D) Adequate supervision is provided twenty-four (24) hours a day, and the minor is checked in person at least every fifteen (15) minutes.

14.170 Investigation And Recommendations By The Tribal Caseworker:

(1) Investigation The caseworker shall investigate within forty-eight (48) hours of the preliminary inquiry or release of the minor to determine whether the interests of the minor and the Tribe require that further action be taken.

(2) Recommendation Upon completion of the investigation, the caseworker may recommend to the presenting officer that no further action be taken; an informal adjustment hearing be set; a petition be filed; or a transfer petition be filed.

(3) Failure to Investigate Failure to make the investigation shall not be grounds for dismissal of proceedings against the minor.

14.171 Informal Adjustment Conference:

(1) When Allowed Within five (5) days of the preliminary inquiry, the presenting officer may hold an informal conference with the minor and minor's parent, guardian, custodian, spokesperson or legal representative to discuss alternatives to the filing of a petition if:

(A) The admitted facts bring the case within the jurisdiction of the Court;

(B) An informal adjustment of the matter would be in the best interest of the minor and the Tribe; and

(C) The minor and parent, guardian, custodian, spokesperson or attorney for the minor consent to an informal adjustment with knowledge that the consent is voluntary.

(2) Alternatives As a result of the informal adjustment conference, the presenting officer may:

(A) Refer the minor and parent, guardian or custodian to a community agency for needed assistance;

(B) Order terms of supervision, calculated to assist and benefit the minor and parent, guardian or custodian and which regulate the minor's activities and those of the parent, guardian or custodian and which are within the ability of the minor to perform.

(C) Accept an offer of restitution voluntarily made by the minor; or

(D) File a petition pursuant to this Chapter 5 if it appears no other alternative will be in the best interests of the minor and the Tribe.

(3) Written Agreement to Informal Adjustment

(A) Consent The presenting officer shall set out, in writing, the agreement and conclusions reached at the informal hearing conference. All parties shall sign the agreement and receive a copy of it.

(B) Time Limit An informal adjustment period shall not exceed six (6) months, except by order of the Court.

(C) Review The caseworker shall review minor's progress every thirty (30) days. If at any time after initial thirty (30) day period, but before the end of the six (6) months, the caseworker concludes the agreement is not being followed, the caseworker shall recommend to the presenting officer to file a petition pursuant to this Chapter 5.

(D) Approval by Presenting Officer The presenting officer shall have final authority to accept or reject a proposed informal adjustment conference. The presenting officer must accept or reject the agreement within five (5) days. All parties to the informal adjustment conference shall be told by the presenting officer at the beginning of the conference that he or she has the authority to accept or reject any agreement the parties reach.

(E) Notice of Informal Adjustment Agreement to the Court The presenting officer shall file a copy of the informal adjustment agreement with the Court.

(F) Disposition Upon Completion of Agreement If the informal adjustment agreement is followed and the caseworker does not recommend the filing of a petition during the informal adjustment period, the presenting officer shall dismiss the complaint against the minor with prejudice at the end of the agreement period.

(4) Use of Statements Made No written or oral statements made during the informal adjustment conference may be used against a minor or minor's parents if a petition is filed.

14.172 Petition: The petition shall be prepared as required by this Chapter 5 and

filed within three (3) days after it is determined or recommended that a petition should be filed.

14.173 Notice Of Hearing: Notice of a hearing shall be given to all parties as required by the Rules of the Court.

14.174 Summons: Summons shall be issued and serve as required by the Rules of the Court.

14.175 Hearing On A Petition (Adjudication):

(1) Time Limit A hearing on the petition shall be held within ten (10) days after the petition is filed.

(2) Purpose The Court shall conduct the hearing for the primary purpose of determining if a minor committed the alleged illegal act.

(3) Plea If the minor wishes to admit that he or she committed the alleged act, the Court shall proceed as required in Section 5.16(07) of this Chapter 5.

(4) Disposition If the Court finds the minor committed the alleged illegal act, the Court shall dispose of the matter in a manner least restrictive to the minor and consistent with the best interests of the minor and the Tribe as allowed in Section 5.08(e) of this Chapter 5.

(5) Final Order A finding that the minor is a juvenile offender is a final order for purposes of appeal.

14.175 Probation Revocation Hearing: A minor alleged to have violated the terms of probation may be proceeded against in a probation revocation hearing. All procedures, rights and duties applicable to juvenile offender petitions shall be followed in a probation revocation proceedings.

MISCELLANEOUS PROVISIONS

Sections:

14.176	Compulsory School Attendance
14.177	Emancipation
14.178	Establishment Of Parentage And Support
14.179	Appeal
14.180	Full Faith And Credit
14.181	Standards For Detention And Shelter Care Facilities

14.176 Compulsory School Attendance:

(1) Compulsory School Attendance: Responsibility: Any person who, because of age, is eligible to become a qualified student as defined by California State Law until attaining the age of sixteen (16) shall attend a public or private school or a state institution. A person shall be excused from this requirement if

(A) The person is specifically exempted by law from the provisions of this section;

(B) The person has graduated from a high school;

(C) The person is at least fourteen (14) years of age and has been excused by the local school board or its authorized representative upon a finding that the person will be employed in a gainful trade or occupation or engaged in an alternative form of education sufficient for the person's educational needs and the person having legal custody and control consents:

(D) The person is excused from the provision of this section by the superintendent of schools of the school district in which the person is a resident with consent of the person having legal custody and control of the person to be excused and such person is under sixteen (16) years of age; or

(E) The person is judged, based on standards and procedures adopted by the California State Board of Education, to be unable to benefit from instruction because of learning disabilities or mental, physical or emotional conditions.

(2) A person subject to the provisions of this section shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident.

(3) Any person having legal custody and control of a person subject to the provision of this section is responsible for the school attendance of that person.

(4) Certificates of Employment

(A) Full-Time School Attendance Not Required Any student subject to the provisions of this section attaining the age of sixteen (16) may be excused from full-time school attendance by issuance of a certificate of employment by the superintendent of schools of the school district in which the student is a resident or is employed. The certificate of employment shall only be issued upon satisfactory assurance to the superintendent of schools that the student will be

definitely employed in a gainful trade or occupation.

(B) Contents of Certificate The certificate of employment shall contain the following information--

1. The name, age and residence of the person excused from full-time school attendance;
2. By whom the person is to be employed or is employed;
3. The last/class grade attended by the person; and
4. A statement that the person is excused from full time school attendance until the certificate is revoked.

(C) Expiration of Certificate If and when the employment certification is revoked or expires and the person is still under 18 years of age, then the compulsory school attendance laws will be reapplied to that person.

(5) Enforcement of Attendance Law/Penalty

(A) Responsibility for Enforcement Each local school board and each governing authority of a private school shall initiate the enforcement of the provisions of this Compulsory School Attendance Section for students enrolled in their respective schools.

(B) Procedure To initiate enforcement of the provisions of the Compulsory School Attendance Section, a local school board or governing authority of a private school or their authorized representatives shall give written notice by certified mail to or by personal service on the parent, guardian or one having custody of the person subject to the provisions of the Compulsory School Attendance Section. Any person continuing to violate the provisions of the Compulsory School Attendance Section after receiving written notice as provided by this section shall be reported to the Tribal Court and shall be considered to be a neglected child or a child in need of supervision and thus subject to the provisions of this Chapters.

(C) Failure to Enforce Any person failing his/her responsibility for initiating enforcement of subsection B of this section is guilty of neglect.

(D) Neglect by Parent, Guardian or Custodian After receiving notice (Subsection B), any parent, guardian or custodian of a person continuing to violate the provisions of the Compulsory School Attendance Section is guilty of neglect if the parent, guardian or custodian by act or omission, caused the

continuing violation.

- (6) Religious Instruction: Any student may be excused from school to participate in religious activities with the written consent of the student's parent, guardian or custodian,

14.177 Emancipation:

- (1) Requirements: The Tribal Court may declare a child emancipated either pursuant to a petition or as a dispositional alternative if the child:

(A) Wishes to be free from parental control and protection and no longer needs that control and protection; or

(B) Is a minor-in-need-of-care or delinquent child as defined by this Chapter 5, and all of the following exist.

- (2) Requirement for Emancipation: Before a minor may be emancipated, he shall:

(A) Be sixteen (16) years of age; and

(B) Be self-supporting; and

(C) Understand the consequences of being free from parental control and protection; and

(D) Have an acceptable plan for independent living.

- (3) Procedure for Emancipation

(A) Petition A minor may petition the Tribal Court for a declaration of full or partial emancipation. The petition shall be verified and shall state specific facts which will support a declaration of emancipation.

(B) Notice Before the petition is heard, notice shall be given to the minor's parent'(s), guardian or custodian as required by this Chapter 5.

(C) Findings If the Court finds that the requirements of this section are met, the Court may grant all or part of the petition, unless, after having considered all of the evidence, it finds that emancipation would not be in the best interest of the child.

(D) Declaration If the Court grants all or part of the petition, it shall immediately issue a declaration of emancipation.

- (4) Purpose for Emancipation: An emancipated minor shall be considered an adult over the age of eighteen (18) for all purposes except that they shall remain subject to the laws requiring compulsory school attendance and to the continuing jurisdiction of the Tribal Court.

14.178 Establishment Of Parentage And Support:

- (1) Child's Right to Support: The parents are jointly liable for the support of the child until he or she reaches eighteen (18) years of age, is emancipated, or the parental rights are terminated, notwithstanding the child's parents have never been married to each other.

- (2) Establishing Parentage: The parentage of a child may be established by:

(A) A written acknowledgement by a parent that he is the father of or she is the mother of the child, and which is filed with the Tribal Court; or

(B) A judicial determination by the Tribal Court.

- (3) Proceedings to Establish Parentage and Compel Support:

- (A) When and By Whom Proceedings May be Filed:

1. Proceedings to establish parentage may be brought in Tribal Court at any time before the child is 18 years of age by a parent or by the minor acting through a guardian if the complainant parent dies or becomes disabled, or by the Tribe; and

2. Proceedings to compel support from a parent may be brought in Tribal Court at any time until a child reaches the age of eighteen (18) or becomes an adult through emancipation or marriage, and shall be brought by a complaining parent, by the minor if the complainant dies or becomes disabled or by the Tribe. Proceedings on behalf of a minor may be brought by the custodian of the minor.

- (B) Form of Petition; Summons; Procedures

1. The petition shall be in the form approved by the Tribal Court and shall charge the person named as respondent with being the father or mother of the minor and demand that such person be compelled to support the minor;

2. Summons shall be issued and served as in other actions under this Chapter 5; and

3. Procedure shall be the same as in other Tribal Court actions.

(C) Judgment The Court shall enter its order determining the child's parentage and support, if any, at the conclusion of the adjudicatory hearing.

(4) Starting and Completing Proceedings: Proceedings may be started before the birth of the child, but, unless the alleged father consents, trial will not be held until at least 15 days after the birth of the child.

(5) Rights of a Child Once Parentage is Established: After the parentage of a child is established, the child has the same rights of inheritance from the person who is establishes as a parent that a child born as a result of a lawful marriage has under tribal law.

14.179 Appeal:

(1) Procedure: Upon establishment of a Tribal Appellate Court, an appeal may be taken from any order, decree or judgment of the Tribal Court under this Chapter 5 to said Appellate Court. Such appeal shall be taken in the same manner in which appeals are taken from judgments or decrees of the Tribal Court. Except as otherwise provided in this Ordinance, the appeal must be taken within one month from the entry of the order, decree or judgment appealed from.

(2) Stay Pending Appeal: Unless the Court says its order, the pendency of an appeal shall not stay the order or judgment appealed from in a children's case. Where the order or decree appealed from directs a change of legal custody of a child, the appeal shall be heard and decided at the earliest practical time. The name of the child shall not appear on the record on appeal.

14.180 Full Faith And Credit: The Court shall have full faith and credit to State and Tribal custody orders, where the state and tribe reciprocate in giving full faith and credit to Court Orders of the Hopland Tribal Court, and where such orders are consistent with the public policy of the Tribe, the intent of the Indian Child Welfare Act, and the laws and customs of the Tribe.

14.181 Standards For Detention And Shelter Care Facilities:

(1) Rules and Regulations The Tribal Council shall adopt written rules and regulations governing the operation of detention and shelter care facilities.

(2) Content of Rules and Regulations The Rules and Regulations shall include but are not limited to the following items:

(A) cleanliness standards;

- (B) heat, water and lights standards;
- (C) personnel standards;
- (D) visiting privileges;
- (E) occupancy standards;
- (F) provisions for medical and dental care;
- (G) provisions for food, clothing and other personal items

Section 3. Affective Date. Publication. The Secretary of the Tribal Council shall publish a summary of this Ordinance in the Tribe's newsletter and a newspaper of general circulation on the Reservation. The Ordinance shall take effect thirty (30) days after its publication.

CERTIFICATION

The foregoing Ordinance was adopted at a regular meeting of the Hopland Tribal Council held on the 11th of October, 2004, by the following vote:

AYES: 4
NOES: 0
ABSTAIN: 0
ABSENT: 2


Jube C. Fuentes, Secretary


Sandra C. Sigala, Chairperson

TITLE 14
SECTION 2
ORDINANCE NO. 02-08-28A

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE
HOPLAND BAND OF POMO INDIANS GRANTING THE
HOPLAND TRIBAL COURT THE JURISDICTION AND
AUTHORITY TO ISSUE ORDERS RESTRAINING
DOMESTIC VIOLENCE.

The Tribal Council ("Council") of the Hopland Band of Pomo Indians ("Tribe") does hereby ordain as follows:

Findings and Declarations. The Council for the Tribe finds and declares that:

1. The Tribe is a federally recognized Indian Tribe organized under a written Constitution with the Council as the governing body of the Tribe.
2. Article IX, Section I and Article XIII of the Tribe's Constitution grants the Council the authority to enact ordinances for the general welfare of the Tribe and to establish a tribal judicial system. Pursuant to this authority, the Council is adopting this Ordinance.
3. There have been times in the past and there will undoubtedly be times in the future when violence occurs between spouses, parents and children, and other individuals who cohabitate and live on the Hopland Indian Reservation ("Reservation").
4. The purpose of this Ordinance is to prevent the reoccurrence of acts of violence and sexual abuse between family members and domestic partners by granting to the Hopland Tribal Court the authority to issue emergency protective orders to provide for the separation of the persons involved in the domestic violence for a period sufficient to enable those persons to seek a resolution to the causes of the violence and permanent protective orders to prevent domestic violence among those individuals who are unable to resolve their differences.
5. The adoption of this Ordinance would promote the public health and safety by preventing violence, particularly violence against children on the Reservation. The adoption of this Ordinance is, therefore, in the best interests of the Tribe and its members.

Adoption of New Chapters 2, 3, 4, and 5 to Title 14, Section 2 of the Hopland Tribal Code, entitled "Domestic Violence Prevention Act." Four new Chapters 2, 3, 4 and 5 shall be added to Title 14, Section 2 of the Hopland Tribal Code, entitled "Domestic Violence Prevention; General Provisions and Emergency Orders; Duties of Law Enforcement Officers; Protective Orders and

Other Domestic Violence Prevention Orders, and Registration and Enforcement Orders" respectively which are hereby adopted and shall provide as follows:

DOMESTIC VIOLENCE PREVENTION

Chapter 2

Sections:

- 14.201 Definitions.
- 14.202 Tribal Court Jurisdiction.
- 14.203 Petition or Response; Filing Fee; Waiver of Service Fee; Forms.
- 14.204 Statement on Face of Order; Expiration Date and Notice.
- 14.205 Explicit Statement of Address Not Required.
- 14.206 Forms and Instructions; Promulgation by Chief Judge.
- 14.207 Grounds for Issuance.
- 14.208 Findings of Court.
- 14.209 Inclusion of Other Orders.
- 14.210 Contents of Orders.
- 14.211 Availability of Orders; Effect of Vacation of Household.
- 14.212 Issuance of Orders Without Prejudice; Expiration of Orders.

14.201 Definitions. As used in Chapters 2, 3, 4 and 5 of this Title 14, Section 2, the following definitions shall have the following meanings.

- (a) "Abuse" means intentionally or recklessly to cause or to attempt to cause bodily injury or sexual assault or to place a person in reasonable apprehension of imminent bodily injury to that person or to another;
- (b) "Cohabitant" means a person who regularly resides in the household; "Former Cohabitant" means a person who formerly regularly resided in the household.
- (c) "Domestic Violence" means any abuse mental or physical perpetrated against any of the following person: (1) a spouse or former spouse; (2) a Cohabitant or former cohabitant; (3) the person with whom the respondent is having or has had a dating or engagement relationship; (4) a person with who the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent; (5) a child of a party or a child who is the subject of a child custody action pending before any court of competent jurisdiction, where the presumption applies that the male parent is the father of the child to be protected; and (6) any other person related by consanguinity or affinity to the second degree.

- (d) "Emergency Protective Order" means an Order issued under this Chapter 2.
- (e) "Judge" means the Chief Judge or any associate Judge of the Hopland Tribal Court or any Judge, Commissioner, Referee, or Tribal Court Clerk designated by the Chief Judge to act as a Judge to issue Emergency Protective Orders under this Chapter 2.
- (f) "Law Enforcement Officer" means one of the following officers who requests or enforces an Emergency Protective Order or Protective Order under Chapters 2, 3, 4, or 5 of this Title 14, Section 2: (1) a police officer or law enforcement official of the Hopland Indian Tribe authorized by the Hopland Tribal Court to carry out and enforce the provisions of this Chapter; (2) a Bureau of Indian Affairs Police Officer or Special Officer, and (3) any Peace Officer of the State of California including, but not limited to, any police officer, sheriff, deputy sheriff, California Highway Patrol Officer or California State Police.
- (g) "Protective Order" or "Order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing or in a judgment: (1) an order enjoining specific acts of abuse; (2) an order excluding a person from a dwelling; and (3) an order enjoining other specified behavior.
- (h) "Reservation" means all lands within the exterior boundaries of the Hopland Indian Reservation and any land owned by the United States of America in trust for the Hopland Band of Pomo Indians.
- (i) "Tribe" means the Hopland Band of Pomo Indians, its officers, agents and employees.

14.202 Tribal Court Jurisdiction. The Hopland Tribal Court is hereby granted the jurisdiction and authority to carry out the provisions of Chapters 2, 3, 4, and 5 of this Title 14, Section 2 of the Tribal Code and to do all things necessary to issue Emergency Protective Orders, Protective Orders and to restrain and enjoin domestic violence. The Chief Judge of the Tribal Court shall designate at least one Judge, Commissioner, Referee or the Tribal Court Clerk to be reasonably available to issue orally, by telephone or otherwise, Emergency Protective Orders at all times when the Chief Judge is not available whether or not the Court is in session.

14.203 Petition or Response, Filing Fee; Waiver of Service Fee; Forms. There is no filing fee for a petition, response, or modification of an Emergency Protective Order or Protective Order filed in a proceeding brought pursuant to Chapters 2, 3, 4 or 5 of this Title 14, Section 2. Fees otherwise payable by a petitioner to any Tribal law enforcement officer for serving an order issued under this Title may be waived in any case in which the petitioner has requested a fee waiver on the initiating petition and has filed a declaration that demonstrates, to the satisfaction of the Judge, the financial need of the petitioner for the fee waiver. The declaration required by

this Section shall be on a form developed and approved by the Chief Judge for that purpose. In conjunction with a hearing pursuant to this Title, the Court may make an order for the waiver of fees otherwise payable by the petitioner to a Law Enforcement Officer for serving an Order issued under this Title.

14.204 Statement on Face of Order: Expiration Date and Notice. An order issued under this Chapter shall state on its face the date of expiration of the order and the following statements in substantially the following form: "This order is effective when made. (Name of officer(s)) Law Enforcement Officers shall enforce it immediately on receipt. It is enforceable anywhere on the Reservation by any Law Enforcement Officer that has received the order or is shown a copy of the order. If proof of service on the restrained person has not been received, the Law Enforcement Officer shall advise the restrained person of the terms of the order and then shall enforce it."

14.205 Explicit Statement of Address Not Required. A petition for an order described in this Chapter is valid and the order is enforceable without explicitly stating the address of the petitioner or the petitioner's place of residence, school, employment, the place where the petitioner's child is provided child care services, or the child's school.

14.206 Forms and Instructions: Promulgation by Chief Judge. The Chief Judge shall prescribe the form of the orders and any other documents required by this Chapter and shall promulgate forms and instructions for applying for orders described in this Chapter.

14.207 Grounds for Issuance. A Judge may issue an ex parte Emergency Protective Order where a Law Enforcement Officer asserts reasonable grounds to believe either or both of the following: (1) that a person is in immediate and present danger of abuse or domestic violence, based on the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought; and (2) that a child is in immediate and present danger of abuse by a family or household member or other person, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.

14.208 Findings of Judge. An Emergency Protective Order may be issued only if the Judge finds both of the following: (1) that reasonable grounds have been asserted to believe that an immediate and present danger of domestic violence exists or that a child is in immediate and present danger of abuse; and (2) that an Emergency Protective Order is necessary to prevent the occurrence or recurrence of domestic violence or abuse.

14.209 Inclusion of Other Orders. An Emergency Protective Order may include any of the following specific orders, as appropriate: (1) A Protective Order, as defined in Section 14.201 this Chapter; (2) An order determining the temporary care and control of any minor child of the endangered person and the person against whom the order is sought; and (3) an order placing the care and control of the endangered child and any other minor children in the family or household with the parent or guardian of the endangered child who is not a restrained

party. The Domestic Violence Counselor or his/her designee shall prepare a list of temporary shelter case families, preferably tribal members, including safe houses, respite care facilities and other shelter facilities; such families and facilities shall be screened and certified in order to assure that they are safe and caring places for minor children and victims of domestic violence; the Counselor or his/her designee shall appear at any and all ex parte or noticed hearings and present to the court options for placement taken from that list.

14.210 Contents of Orders. An Emergency Protective Order shall include all of the following:

- (1) a statement of the grounds asserted for the order;
- (2) the date and time the order expires;
- (3) an allegation that the endangered person resides on the Reservation, or is an enrolled Tribal member, or eligible to be enrolled, regardless of residency; and
- (4) the following statements:
 - (a). "To the Protected Person: This order will last only until the date and time noted above. If you wish to seek continuing protection, you will have to apply for a Protective Order from the Court. You may seek the advice of an attorney or spokesperson as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application."
 - (b) "To the Restrained Person: This order will last until the date and time noted above. The protected party may, however, obtain a more permanent restraining or Protective Order from the Court. You may seek the advice of an attorney as to any matter connected with the application. The attorney or spokesperson should be consulted promptly so that the attorney may assist you in responding to the application."
- (5) In the case of an endangered child, the following statement: "This order will last only until the date and time noted above. You may apply for a more permanent restraining or Protective Order from the Court. You may seek the advice of an attorney in connection with the application for a more permanent restraining or Protective Order."

14.211 Availability of Orders; Effect of Vacation of Household. The fact that the endangered person has left the household to avoid abuse does not affect the availability of an Emergency Protective Order.

14.212 Issuance of Orders Without Prejudice: Expiration of Orders. An Emergency Protective Order shall be issued without prejudice to any person. An Emergency Protective Order expires at the earlier of the following times: (1) midnight on the seventh day following the day of its issuance or (2) if the seventh calendar day following the day of its issuance falls on a Saturday, Sunday, or holiday then at midnight on the following Monday.

Chapter 3

DUTIES OF LAW ENFORCEMENT OFFICER

Sections:

- 14.213 Reduction of Orders to Writing.
- 14.214 Duties of Officer Who Requested Order.
- 14.215 Enforcement of Orders; Liability of Officers Enforcing Orders.
- 14.216 Officer Required to Carry Copies of Order.

14.213 Reduction of Orders to Writing. A Law Enforcement Officer who requests an Emergency Protective Order shall reduce the request to writing and sign it.

14.214 Duties of Officers who Request Order. A Law Enforcement Officer who requests an Emergency Protective Order shall do all of the following: (1) serve the order on the restrained person, if the restrained person can reasonably be located; (2) give a copy of the order to the protected person or, if the protected person is a minor child, to the parent or guardian of the endangered child, who is not a restrained person, if the parent or guardian can reasonably be located, or to a person having temporary custody of the endangered child; and (3) file a copy of a proof of service of the order on the restrained person with the Court as soon as practical after issuance and service if the restrained person can reasonably be located.

14.215 Enforcement of Orders Liability of Officers Enforcing Orders. A Law Enforcement Officer shall use every reasonable means to enforce an Emergency Protective Order. A Law Enforcement Officer who acts in good faith to enforce an Emergency Protective Order is not civilly or criminally liable and is an officer of the Tribe who enjoys the Tribe's immunity from suit.

14.216 Officer Required to Carry Copies of Orders. A Law Enforcement Officer who requests an Emergency Protective Order shall carry copies of the order while on duty. A copy of every order issued under this Chapter shall be kept on file with dispatches of the Tribal Police Department and/or the Chief of Police,

Chapter 4

PROTECTIVE ORDERS AND OTHER DOMESTIC VIOLENCE PREVENTION ORDERS

Sections:

- 14.217 Issuance of Order Upon Affidavit.
- 14.218 Persons Who May Be Granted Order.
- 14.219 Form of Notice on Order.
- 14.220 Support Persons for Victims of Domestic Violence; Powers and Duties; Discretion of Court.
- 14.221 Protective Orders; Court to Inform Parties of Terms of Orders.
- 14.222 Mutual Orders; Personal Appearance of Parties; Evidence.
- 14.223 Ex Parte Order Enjoining Contact.
- 14.224 Ex Parte Order Excluding Party from Dwelling.
- 14.225 Ex Parte Order Enjoining Specific Behavior.
- 14.226 Issuance or Denial on Date Application Submitted.
- 14.227 Issuance of Orders; Child Support; Restitution; Counseling; Attorneys Fees.
- 14.228 Duration and Other Limitations of Orders.
- 14.229 Judgments Which May Include Protective Orders.
- 14.230 Statement on Face of Order Included in Judgment.

14.217 Issuance of Order Upon Affidavit. A Protective Order may be issued under this Chapter, with or without notice, to restrain any person for the purpose of preventing a reoccurrence of domestic violence and ensuring a period of separation of the persons involved, if an affidavit shows, to the satisfaction of the Judge, reasonable proof of a past act or acts of abuse.

14.218 Persons Who May Be Granted Order. An Order under this Chapter may be granted to any person set forth in Section 8.02.0 10 of this Title 8 in the definition of "Domestic Violence." The right to petition for relief shall not be denied because the petitioner has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for dissolution of marriage, for nullity of marriage, or for legal separation of the parties has not been filed.

14.219 Form of Notice on Order. An Order issued under this Chapter shall set forth on its face a notice in substantially the following form: "NOTICE TO RESTRAINED PERSON: If you do not appear at the court hearing specified herein, the court may grant the requested orders for a period of up to 3 years without further notice to you."

14.220 Support Persons for Victims of Domestic Violence; Powers and Duties; Discretion of Court.

- (1) It is the function of the any person ("Domestic Violence Counselor" or "Counselor") designated by the Tribal Council for that purpose to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The Counselor shall assist the person by taking whatever measures are required to assure the person that he or she will not be injured or threatened by the other party during the proceedings where the person or the other party must be present in close proximity. The Counselor is not present as a legal adviser and shall not give legal advice.
- (2) The Counselor may accompany either party to any proceeding to obtain a Protective Order, as set forth in this Chapter. Where the party is not represented by an attorney, the Counselor may sit with the party at the table that is generally reserved for the party and the party's attorney.
- (3) Notwithstanding any other provision of law to the contrary, if the Court has issued a Protective Order, the Counselor may accompany a party protected by the order during any other court proceedings pending before the Tribal Court to which the protected party is a party to the proceedings and any court ordered settlement conferences, mediation or counseling pursuant to said proceedings. The presence of the Counselor does not waive the confidentiality of any court proceedings, mediation, settlement conference or counseling that the protected party participates in and the Counselor is bound by the confidentiality of the those proceedings.
- (4) Nothing in this Section 14.220 precludes a Judge from exercising his or her discretion to remove a person from the courtroom who the Judge believes is disrupting the proceedings or otherwise unduly influencing the party protected by the Protective Order.

14.221 Protective Orders Court to Inform Parties of Terms of Orders. When making a Protective Order, issued under this Chapter, where both parties are present in Court, the Judge shall inform both the petitioner and the respondent of the terms of the Order, including notice that the respondent is prohibited from purchasing, or receiving or attempting to purchase or receive a firearm, and including notice of the penalty for violation.

14.222 Mutual Orders: Personal Appearance of Parties, Evidence. The Judge may not issue a mutual order enjoining the parties from specific acts of abuse unless both parties personally appear and each party presents written evidence of abuse or domestic violence. In this case, written evidence is not required if both parties agree that this requirement does not apply.

14.223 Ex Parte Order Enjoining Contact. The Judge may issue an ex parte order enjoining a party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, telephoning, e-mailing, contacting repeatedly by mail with the intent to

harass, or disturbing the peace of the other party and, in the discretion of the Court, on a showing of good cause, of other named family and household members.

14.224 Ex Parte Order Excluding Party from Dwelling.

- (1) The Judge may issue an ex parte order excluding a party from the family dwelling, the dwelling of the other party, the common dwelling of both parties, or the dwelling of the person who has care, custody, and control of a child to be protected from domestic violence for the period of time and on the conditions the Court determines, regardless of which party is the owner or lessee of the dwelling.
- (2) The Judge may issue an order under subdivision (1) only on a showing of all of the following: (a) Facts sufficient for the Court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises; (b) that the party to be excluded has assaulted or threatened to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party; and (c) that there is a substantial risk that physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

14.225 Ex Parte Order Enjoining Specific Behavior. The Judge may issue an ex parte order enjoining a party from specified behavior that the Court determines is necessary to effectuate orders issued under this Chapter including, but not limited to the following: (1) The Court may issue an ex parte order determining the temporary custody of a minor child on the conditions the Court determines; (2) an ex parte order determining the right of a party to visit a minor child on the conditions the Court determines in a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties; (3) an ex parte order determining the temporary use, possession, and control of real or personal property and the payment of any liens or encumbrances coming due during the period the order is in effect; and (4) an ex parte order restraining the married person from specified acts in relation to community, quasi-community, and separate property.

14.226 Issuance or Denial on Date Application Submitted. An ex parte order under this Chapter shall be issued or denied on the same day that the application is submitted to the Court, unless the application is filed too late in the day to permit effective review, in which case the Order shall be issued or denied on the next day of judicial business in sufficient time for the Order to be filed that day with the Clerk of the Tribal Court.

14.227 Issuance of Orders Child Support; Restitution; Counseling; Attorneys Fees. The Court may issue an order excluding a person from a dwelling if the Court finds that physical or emotional harm would otherwise result to the other party, to a person under the care, custody, and control of the other party, or to a minor child of the parties or of the other party. In addition, the Court may issue any of the following orders after notice and hearing:

- (a) if there is a presumption that the respondent is the natural father of a minor child and the child is in the custody of the petitioner, the Court may order a party to pay an amount necessary for the support and maintenance of the child;
- (b) an order that restitution be paid to the petitioner for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of the abuse inflicted by the respondent or any actual physical injuries sustained from the abuse;
- (c) an order that restitution be paid by the petitioner for out-of-pocket expenses incurred by a party as a result of an ex parte order that is found by the Court to have been issued on facts shown at a noticed hearing to be insufficient to support the order;
- (d) an order that restitution be paid by the respondent to any public or private agency for the reasonable cost of providing services to the petitioner required as a direct result of the abuse inflicted by the respondent or any actual injuries sustained thereof;
- (e) an order requiring any party to participate in counseling with a licensed mental health professional or through other community programs and services that provide appropriate counseling, including, but not limited to, mental health or substance abuse services, where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous incidences of domestic violence;
- (f) an order requiring a restrained party to participate in battered treatment counseling; and
- (g) an order for the payment of attorneys fees and costs of the prevailing party.

14.228 Duration and Other Limitation on Orders. In the discretion of the Court, an order issued after notice and a hearing under this Chapter may have a duration of not more than three years, unless otherwise terminated or extended by further order of the Court either on written stipulation filed with the Court or on the motion of a party. The failure to state the expiration date on the face of the order creates an order with a duration of three years from the date of issuance. Nothing in this Section prohibits parties, by written stipulation, from requesting an order and the Court entering an order of permanent duration. Any order for restitution issued under this Chapter shall not include damages for pain and suffering.

14.229 Judgments Which May Include Protective Orders. A judgment entered in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, may include a Protective Order issued under this Chapter.

14.230 Statement on Face of Order Included in Judgment. If an order is included in a judgment pursuant to this Chapter the judgment shall state on its face both the

following: (1) which provisions of the judgment are the orders; and (2) the date of expiration of the orders, which shall not be more than three years from the date the judgment is issued, unless extended by the Court after notice and a hearing.

Chapter 5

REGISTRATION AND ENFORCEMENT OF ORDERS

Sections:

- 14.231 Transmittal to Enforcement Agencies.
- 14.232 Enforceability of Orders; Receipt of Copy by Law Enforcement Agency.
- 14.233 Availability of Information Concerning Orders; Law Enforcement Officers.
- 14.234 Service of Order Against Domestic Violence.
- 14.235 Personal Service of Order Not Required.
- 14.236 Notification to Mendocino County Sheriff's Department.
- 14.237 Appointment of Counsel; Payment of Attorney fees and costs.
- 14.238 Copies of Order to Be Provided to Petitioner.
- 14.239 Willful and Knowing Violation of Order; Penalty.

14.231 Transmittal to Enforcement Agencies. The Judge shall order the petitioner or the attorney for the petition to deliver, or the Clerk of the Court to mail, a copy of an order issued under Chapter 4 of this Title 14, Section 2 or an extension, modification, or termination of the order, and any subsequent proof of service by the close of the business day on which the order, extension, modification or termination was made, to each Law Enforcement Officer designated by the petitioner or the attorney for the petitioner having jurisdiction over the residence of the petitioner, the residence of the party with care, custody, and control of a child to be protected from domestic violence, and other locations where the Judge determines that acts of domestic violence against the petitioner and any other person protected by the order are likely to occur.

14.232 Enforceability of Orders; Receipt of Copy by Law Enforcement Agency. Notwithstanding Section 14.235 above, and subject to the provisions of this Section, an Order issued under Chapter 4 of this Title 14, Section 2 is enforceable in any place on the Reservation. An Order issued under Chapter 4 of this Title 14, Section 2 is not enforceable by any Law Enforcement Officer other than the Tribe's Law Enforcement Officer, unless that Law Enforcement Officer has received a copy of the Order.

14.233 Availability of Information Concerning Orders; Law Enforcement Officers. Each appropriate law enforcement agency shall make available to any Law Enforcement Officer responding to the scene of reported domestic violence, through an existing system for verification, information as to the existence, terms, and current status of an Order issued under Chapter 4 of this Title 14, Section 2.

14.234 Service of Order Against Domestic Violence. An Order issued under Chapter 4 of this Title 14, Section 2 shall, on request of the petitioner, be served on the respondent by any Law Enforcement Officer who is present at the scene of reported domestic violence involving the parties to the proceeding. The moving party shall provide the officer with an endorsed copy of the Order and a proof of service which the officer shall complete and transmit to the Clerk of the Tribal Court. It is a rebuttable presumption that the proof of service was signed on the date of service.

14.235 Personal Service of Order Not Required.

- (1) If a person named in an order issued under Chapter 4 of this Title 14, Section 2 has not been served personally with the Order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the Order from the Court, no additional proof of service is required for enforcement of the Order.
- (2) The judicial forms for orders issued under Chapter 4 of this Title shall contain a statement in substantially the following form: "NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES WERE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER WAS ISSUED."

14.236 Notification to Mendocino County Sheriffs Department.

- (1) Except as provided in subdivision (2) on receipt of a copy a Protective Order together with subsequent proof of service of the Protective Order, the Law Enforcement Officer, if it is other than the Mendocino County Sheriff's Department, having jurisdiction over the residence of the petitioner shall immediately notify the Mendocino County Sheriffs Department regarding the name, race, date of birth, and other personal descriptive information as required by the Tribal Court, the date of issuance of the Order and the Order's duration or expiration.
- (2) Proof of service of the Protective Order is not required for the purposes of Chapter 4 or 5 of this Title if the Order indicates on its face that both parties were personally present at the hearing where the Order was issued and that, for the purpose of Section 14.236, no proof of service is required.

14.237 Appointment of Counsel: Payment of Attorney Fees and Costs. The Judge may, in its discretion, appoint counsel to represent the petitioner in a proceeding to enforce the terms of a Protective Order. In a proceeding in which private counsel was appointed by the Court, the Court may order the respondent to pay reasonable attorney's fees and costs incurred by the petitioner.

14.238 Copies of Order to Be Provided to Petitioner. The Judge shall order the Clerk of the Court to provide to a petitioner, without cost, five certified, stamped, and endorsed copies of any Order issued under Chapters 2, 3, 4, or 5 of this Title 8, and of an extension, modification, or termination of the Order.

14.239 Willful and Knowing Violation of Order; Penalty. A willful and knowing violation of an Emergency Protective Order or Protective Order is a crime punishable by up to one (1) year in the Tribal jail or a Five Thousand Dollars (\$5,000.00) fine or both. In the event that the Tribal Court does not have criminal jurisdiction over the person who has violated the Emergency Protective Order or Protective Order, a willful and knowing violation of the Emergency Protective Order or Protective Order is a civil violation punishable by a fine of up to Five Thousand Dollars (\$5,000.00). The Judge shall have the authority to require any fine levied by the Court under this Chapter to be paid by the Tribe from funds that would otherwise be paid by the Court under this Chapter to be paid by the Tribe from funds that would otherwise be paid by the Tribe as a per capita payment of gaming revenues to the person upon whom the Court levied the fine.

14.240 Severability. If any part or provisions of this Ordinance or the application thereof to any person or circumstance is held in valid, the remainder of this Ordinance including the application of any such part or provision to the other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

14.241 Effective Date. This Ordinance shall become effective on the date that it is adopted by the Tribal Council.

CERTIFICATION

The foregoing Ordinance was adopted at a duly convened meeting of the Hopland Tribal Council held on the 28th day of August, 2002, by the following vote:

AYES: 4
NOES: 0
ABSENT: 2
ABSTAIN: 0


Sagara C. Sigala, Chairperson

ATTESTED:


Julie Vachon, Secretary

TITLE 14
SECTION 3

ORDINANCE NO. 07-11-19A

A REVISED ORDINANCE OF THE TRIBAL COUNCIL OF THE
HOPLAND BAND OF POMO INDIANS GRANTING TO THE
TRIBAL COURT THE AUTHORITY TO PERFORM MARRIAGES

The Tribal Council ("Council") of the Hopland Band of Pomo Indians
("Tribe") does hereby ordain as follows:

Findings and Declaration. The Council for the Tribe finds and declares that:

1. Under Section 12.803 of the Tribal Court Ordinance, the Tribal Court has jurisdiction over all matters in law or equity which the Council expressly authorizes by ordinance.
2. There is a continuing need for a means by which Tribal members can conveniently get married on the Tribe's Hopland Indian Reservation ("Reservation").
3. It is beneficial to those members of the Tribe and non-members living on the Reservation wishing to get married to be able to have the marriage performed on the Reservation by the Tribal Court or its designee.
4. The adoption of this Revised Ordinance is in the best interests of the members of the Tribe and promotes the health and welfare of the Tribe. This Revised Ordinance supercedes the prior marriage ordinance (Ordinance No. 02-08-28), which is hereby repealed.

Adoption of replacement Chapter 3 to Title 14 of the Hopland Tribal Code Entitled "Tribal Marriages". A new replacement Chapter 3 entitled "Tribal Marriages" is hereby inserted into Title 14 of the Hopland Tribal Code, in place of the former Chapter 3, and shall provide as follows:

Chapter 3

TRIBAL
MARRIAGES

Section:

- 14.301 Definitions
- 14.302 Marriage: Consent/Ceremony
- 14.303 Capacity to Consent
- 14.304 Marriage License
- 14.305 Health Information

- 14.306 Expiration of License
- 14.307 Authorization for Judge to Perform Ceremony
- 14.308 Premarital Agreements
- 14.309 Ceremony
- 14.310 Completion: Marriage Certificate
- 14.311 Void Marriage
- 14.312 Recognition of Common Law Marriages
- 14.313 Fees

14.301 Definitions. For the purpose of this Chapter, the following words and phrases shall have the following meanings:

- A. "Common Law Marriage" shall mean a relationship between two consenting adults that is recognized in the Hopland Indian community as a family or marriage.
- B. "Court Clerk" or "Clerk" shall mean the Clerk of the Tribal Court.
- C. "Judge" or "Tribal Judge" shall mean any Judge of the Tribal Court.
- D. "Premarital Agreement" shall mean an agreement between fiancé and fiancée about property ownership made so as to take effect upon marriage.
- E. "Reservation" shall mean all land between the exterior boundaries of the Reservation and any land held in trust for the Tribe or its members by the United States.
- F. "Tribal Court" or "Court" shall mean the Tribal Court of the Tribe.
- G. "Tribe" shall mean the Hopland Band of Pomo Indians.

14.302 Marriage: Consent/Ceremony. Marriage is a consensual relationship that becomes a civil contract if entered into by two people of the opposite sex who consent to and are capable of making the contract. Consent alone does not constitute a marriage. A marriage relies upon the issuance of a license, a ceremony, and the issuance of a marriage certificate as authorized by this Chapter.

14.303 Capacity to Consent. A single person, eighteen (18) years of age or older who is an enrolled Tribal member, a resident of the Tribe's Reservation, or who consents to the jurisdiction of the Tribal Court may consent to and consummate a marriage.

14.304 Marriage License.

A. All persons wishing to be married by the Judge shall obtain a license from the Clerk. The license shall contain the following information for each person: (i) full legal name; (ii) place of residence; (iii) age; (iv) sex; (v) Tribal affiliation (if any); (vi) date of birth; (vii) whether previously married, and if so, how the marriage ended (i.e., dissolution, death, annulment, or divorce). No license shall be issued unless both parties are capable of consenting to and consummating the marriage as provided herein. No license shall be issued

unless at least one party is a member of the Tribe. No license shall be issued if either party lacks the capacity to enter into a valid marriage or is, at the time of making the license application, under the influence of an intoxicating liquor or narcotic drug.

B. For purposes of obtaining all facts needed or required, the Clerk at the time of application may question the applicants under oath. The information received shall be reduced to writing and sworn to by each applicant under penalty of perjury. The Clerk may request any additional documentation as needed for verification of facts.

C. The Chief Judge shall prescribe the application forms for the license and the marriage certificate as required by this Chapter within thirty (30) days from the date of the adoption by the Tribal Council.

14.305 Health Information. The Tribe's Community Health Representative shall provide the Clerk with a list of centers available for the testing and treatment of genetic defects and diseases. The Clerk shall provide a copy of this information to all persons applying for a marriage license. No medical examination or laboratory tests shall be required.

14.306 Expiration of License. The marriage license shall not be valid for twenty-four (24) hours after it has been issued and expires ninety (90) days after it is issued. The date and time of issuance and the date of expiration shall be clearly noted on the face of the license.

14.307 Authorization for Judge to Perform Ceremony. Any Judge of the Tribal Court or person designated by the judge shall have authority to perform a marriage ceremony, provided that the marriage license is approved by the Judge, on the Tribe's Reservation.

14.308 Premarital Agreements. Fiances and fiancees may enter into premarital agreements. The agreements must be in writing and may only be changed after the marriage by written amendment. The agreements may involve any property of the parties but may not adversely affect child support. Agreements are enforceable without consideration provided the parties were mentally competent; the parties consent was not obtained by force and each party had the opportunity to have the agreement reviewed by an attorney of their choice prior to executing the agreement.

14.309 Ceremony. The ceremony need not take any particular form, but the fiance and fiancée must declare, in the presence of the Judge or designee performing the ceremony, that they receive each other as husband and wife. Prior to the ceremony the Judge or designee shall obtain the license and determine the fiance and fiancée to be the persons named on the license. If there is reasonable doubt, the Judge may administer oaths and examine the

fiance and fiancée or require documentary proof such as a driver's license or passport or tribal identification card that they are in fact the persons named on the license.

14.310 Completion: Marriage Certificate.

A. After the ceremony, the Judge or designee shall sign and endorse the license with a statement which shall include: (i) time and place of the ceremony; (ii) names and places of residence of one or more witnesses; and (iii) name, address, and title of the Judge or designee performing the ceremony.

B. The Judge shall execute a Marriage Certificate, which shall certify the spouses have entered into marriage. The Clerk shall combine the license and certificate into one form and file it with the Secretary of the Tribal Council, the Tribal Elections Board and the County Recorder of the county of residency of the spouses within ten (10) days of the ceremony.

14.311 Void Marriage. Any marriage attempted between first cousins or persons of nearer kin, except when the first cousins or persons of nearer kin are by adoption only, is prohibited and void. Any marriage attempted by a person who is previously married is prohibited and void, unless the former spouse is deceased or the prior marriage is dissolved or adjudged a nullity at the time the subsequent marriage is contracted.

14.312 Recognition of Common Law Marriages. The Court shall not recognize or certify common law marriages.

14.313 Fees. The Court shall establish fees for obtaining a license and for performing ceremonies. The cost of the Judge's time to perform the ceremony shall be free provided the ceremony is conducted during the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday on the Reservation and not on any legal holiday of the Court. Otherwise the cost of the Judge's time to perform the ceremony shall be paid for by the marriage licensee.

Effective Date. This Ordinance shall take effect immediately upon its passage.

CERTIFICATION

We, Wanda D. Balderama, Tribal Chair, and Pamela Espinoza, Tribal Secretary, serving in our official capacities for the Hopland Band of Pomo Indians, hereby certify that the foregoing Ordinance was enacted by a vote of 5 in favor, 0 against, and 0 disqualified, at a duly-noticed meeting of the Tribal Council with a quorum


Wanda D. Balderama, Tribal Chair


Pamela Espinoza, Tribal Secretary

TITLE 14
SECTION 4
ORDINANCE NO. 07-12-10A

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE HOPLAND BAND
OF POMO INDIANS GRANTING TO THE TRIBAL COURT
THE AUTHORITY TO DISSOLVE MARRIAGES

The Tribal Council of the Hopland Band of Pomo Indians does hereby ordain as follows:

Findings and Declaration. The Tribal Council for the Hopland Band of Pomo Indians ("Tribe") finds and declares that:

1. Under Section 12.830 of the Tribal Court Ordinance, the Tribal Court has jurisdiction over all matters in law or equity which the Tribal Council expressly authorizes by ordinance.
2. There is a continuing need for a means by which Tribal members can dissolve a marriage on the Hopland Indian Reservation ("Reservation").
3. It is beneficial to those members of the Tribe and non-members married to members wishing to dissolve a marriage to be able to have the Tribal Court grant the requested relief on the Reservation.
4. The adoption of this Ordinance is in the best interest of the members of the Tribe and promotes the health and welfare of the Tribe.

Chapter

TRIBAL DISSOLUTION OF MARRIAGES

Section Index:

14.401 Purpose. The purpose of this Ordinance is to grant authority to the Tribal Court to dissolve marriages.

14.402 Definitions. For the purpose of this Chapter, the words and phrases listed below shall have the following meanings:

- (a) "Court Clerk" or "Clerk" shall mean the Clerk of the Tribal Court.
- (b) "Dissolution" or "Divorce" shall mean the termination of a marriage.
- (c) "Judge" or "Tribal Judge" shall mean any Judge of the Tribal Court.

- (d) "Premarital Agreement" shall mean an agreement between fiance and fiancée about property ownership made so as to take effect upon marriage.
- (e) "Reservation" shall mean all land within the exterior boundaries of the Hopland Indian Reservation and any land held in trust for the Tribe or its members by the United States.
- (f) "Tribal Court" shall mean the Tribal Court of the Tribe.
- (g) "Tribe" shall mean the Hopland Band of Pomo Indians.

14.403 Requirements for Dissolution; No Fault Required. A marriage may be dissolved or terminated if irreconcilable differences have caused the irretrievable breakdown of the marriage. If the Tribal Court finds that there is no reasonable prospect of reconciliation, it shall make a finding that the marriage is irretrievably broken and enter a judgment of dissolution. If the Tribal Court finds that there is a reasonable prospect of reconciliation, it may continue the matter and may suggest that the parties seek marital counseling. The Tribal Court may order counseling on its own motion or at the request of either party.

14.404 Jurisdictional Requirements. In order to invoke the jurisdiction of the Tribal Court, at least one of the parties to the marriage must be a member of the Tribe and both parties must consent to Tribal Court jurisdiction. Once consent to jurisdiction is given, it may not be revoked by a party.

14.405 Dissolution of Marriage; Joint Petition. Both parties to a marriage may initiate a proceeding to dissolve or terminate a marriage. A proceeding for the dissolution or termination of a marriage is commenced by the filing with the Tribal Court of a joint petition signed by both spouses under penalty of perjury alleging the following:

- (a) The last known address of each party;
- (b) The date and place of the marriage;
- (c) If the parties are separated, the date on which the separation occurred;
- (d) The names, ages, and addresses of any minor child dependent on either or both of the spouses, and whether the wife is pregnant;
- (e) Any existing arrangements as to the custody, visitation, and support of any children and maintenance of a spouse;
- (f) A statement specifying whether there is property of the parties to be distributed by the Tribal Court;
- (g) A statement that there are irreconcilable differences that have caused the irretrievable breakdown of the marriage;
- (h) Membership in the Tribe of at least one of the spouses;
- (i) Consent to the jurisdiction of the Tribal Court; and
- (j) The relief sought.

The Tribal Court may establish fees for the filing of a joint petition for dissolution of marriage.

14.406 Prohibited Acts. During the pendency of the proceedings, no party shall:

- (a) Harass, intimidate, physically abuse or impose any restraint on the personal liberty of the other party or a minor child of either of the parties;
- (b) Encumber, conceal, damage, destroy, transfer, or otherwise dispose of property owned by either or both of the parties, except in the usual course of business;
- (c) Establish a residence with a minor child of the parties outside of the State of California or more than 150 miles from the residence of the other party within the State of California; or,
- (d) Remove a minor child of the parties from the State of California for a period of more than 30 consecutive days.

14.407 Requirements for Dissolution; Marriage Settlement Agreement Required.

After a joint petition has been filed, a marriage may be dissolved or terminated by the Tribal Court where the parties have agreed, in a written Marriage Settlement Agreement, to the following:

Jurisdiction of the Tribal Court;
Division of separate property;
Division of marital property;
Division of assets and liabilities;
Spousal support, if applicable;
Child support, if applicable;
Child custody, if applicable;
Visitation, if applicable;
Any other requested relief; and
Any matters required to be agreed to by the Tribal Court Judge.

The Tribal Court shall enter a final judgment of dissolution with the written Marriage Settlement Agreement attached unless modified by the Tribal Court. The date the judgment is filed in the Tribal Court is the date the marriage is dissolved and terminated. The Clerk shall mail a copy of the filed final judgment to each party at his or her last known address.

14.408 Provisions for Child Support, and Visitation; Spousal Support the

Disposition of Property and Liabilities. In entering a final judgment of dissolution of marriage, the Tribal Court is empowered, in its discretion, to modify a proposed written Marriage Settlement Agreement on the basis of fairness, equity, and community property principles. The Tribal Court is also empowered, in its discretion, to make provisions for child custody and visitation, the support of any minor child of the marriage

entitled to support, the support of a spouse, the disposition of property and liabilities of the parties using community property principles, and any other relief which it deems just, fair, proper and equitable. The Tribal Court is also empowered to make provisions for such relief on a temporary basis during the pendency of the proceedings. These modifications and provisions shall be reflected in written orders or written judgments of the Tribal Court. The Tribal Court shall continue to have jurisdiction after entry of the final judgment of dissolution.

14.409 Best Interests of the Child. The Tribal Court shall base its child custody, visitation and support orders on the best interests of the child. The Tribal Court may consider, in its discretion, the following factors:

- (a) The wishes of the Tribe;
- (b) The wishes of the child's parents;
- (c) The wishes of the child, if age appropriate;
- (d) The interaction and interrelationship of the child with his or her parents, siblings, and any other person who may significantly affect the child's best interests, including without limitation, the child's extended family and the child's tribe;
- (e) The child's adjustment to his or her home, school and community;
- (f) The availability of extended family members to assist in the child's care and custody;
- (g) The mental and physical health of the child and his or her family;
- (h) The tribal affiliation of the parties and the child; and,
- (i) The extent of the parties' involvement in tribal cultural activities.

14.410 Disposition of Property.

- (a) Separate Property; Trust Property. The property and pecuniary rights of a married person prior to the marriage or acquired after marriage by gift, devise, or inheritance, including the rents, issues and profits thereof, shall not be subject to the debts or contracts of the other party to the marriage and shall be the separate property of that spouse. Any property or pecuniary rights acquired after separation shall also be the separate property of that spouse. Any property held in trust by the United States government for the benefit of a party, whether acquired before or during the marriage, shall be the separate property of that party.
- (b) Community Property. Property acquired during the marriage by either spouse is presumed to be community property unless proved otherwise.
- (c) Factors for Distribution. The Tribal Court should dispose of the property and liabilities of the parties, both community and separate, in accordance with the written Marriage Settlement Agreement. However, the Tribal

Court may, in its discretion, modify the written Marriage Settlement Agreement to provide for a property disposition that is just, fair, proper and equitable after considering all relevant factors, including without limitation:

- The nature and extent of the community property;
- The nature and extent of the separate property;
- The duration of the marriage; and,
- The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for a reasonable period to a spouse having custody of any minor children of the marriage.

14.411 Premarital Agreements. Premarital Agreements (or pre-nuptial agreements) are enforceable without consideration provided that at the time of execution the parties were mentally competent, the parties' consent was not obtained by force or fraud, and each party had the opportunity to have the agreement reviewed by an attorney of his or her choice prior to executing the agreement.

14.412 Modification of Decree. The division of property contained in the final judgment of dissolution entered by the Tribal Court shall be final. Provisions for the custody or visitation of a child, or the amount of child support or spousal support to be paid, may be modified at any time following entry upon a showing of good cause and changed circumstances. Such modification may only be granted upon proper notice to all parties.

14.413 Brochure. The Tribal Court shall develop a marriage dissolution brochure to be provided to all parties prior to the filing of a joint petition.

Amendment. This Ordinance may be amended at any time by the Tribal Council in accordance with Tribal law.

Severability. If any section or provision of this Ordinance is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section or provision of this Ordinance.

Sovereign Immunity. The Tribe's sovereign immunity shall not be waived or limited in any manner by this Ordinance.

Effective. This Ordinance shall take effect immediately upon its passage by the Tribal Council.

CERTIFICATION

We, Wanda D. Balderama, Tribal Chair, and Pamela Espinoza, Tribal Secretary, serving in our official capacities for the Hopland Band of Pomo Indians, hereby certify that the foregoing Ordinance was enacted by a vote of 5 in favor, 0 against, and 0 disqualified, at a duly-noticed meeting of the Tribal Council with a quorum present held on December 10, 2007, at the Hopland Indian Reservation.


Wanda D. Balderama, Tribal Chair


Pamela Espinoza, Tribal Secretary

TITLE 14
SECTION 5
ORDINANCE NO. 08-02-15

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE HOPLAND BAND
OF POMO INDIANS GRANTING TO THE TRIBAL COURT
THE AUTHORITY TO ISSUE CONSERVATORSHIPS AND GUARDIANSHIPS

The Tribal Council of the Hopland Band of Pomo Indians does hereby ordain as follows:

Findings and Declaration. The Tribal Council for the Hopland Band of Pomo Indians ("Tribe") finds and declares that-

1. Under Section 12.830 of the Tribal Court Ordinance, the Tribal Court has jurisdiction over all matters in law or equity which the Tribal Council expressly authorizes by ordinance.
2. There is a continuing need for a legal procedure by which tribal members can petition the Tribal Court for a conservatorship of an Incapacitated Adult or guardianship of a Minor.
3. It is beneficial to Tribal members, including their children, parents, and spouses, to be able to petition the Tribal Court so that a conservatorship or guardianship may be issued on the Reservation.
4. The adoption of this Ordinance is in the best interest of the members of the Tribe and promotes the health and welfare of the Tribe.

TRIBAL CONSERVATORSHIPS AND GUARDIANSHIPS

Section Index:

- 14.501 Purpose.
- 14.502 Definitions
- 14.503 Jurisdiction
- 14.504 Commencement of Proceedings.
- 14.505 Persons Entitled to File Petitions.
- 14.506 Contents of Petition.
- 14.507 Notice of Proceedings.
- 14.508 Preference in Appointing Conservator and/or Guardian.
- 14.509 Hearings; Notice.
- 14.510 Temporary Orders.
- 14.511 Spokesperson.
- 14.512 Home Evaluations; Physical and Mental Examinations.
- 14.513 Findings; Appointment.
- 14.514 Issuance of Court Order and Letters

14.515 Effect of Accepting Appointment as Conservator or Guardian.

14.516 Investigation of Ward's Estate.

14.517 General Powers of Guardians.

14.518 General Powers of Conservators.

14.519 Powers of Conservator Pursuant to Tribal Court Order.

14.520 Disbursement of Per Capita Payments.

14.521 Reports to the Tribal Court.

14.522 Bonds.

14.523 Termination or Removal of Conservatorship or Guardianship.

14.524 Accounting; Audits.

14.525 Resignation of Conservator or Guardian.

14.526 Penalties.

14.527 Amendment.

14.528 Severability.

14.529 Sovereign Immunity.

14.530 Effective Date.

14.531 Repealer.

14.501 Purpose.

The purpose of this Ordinance is to grant authority to the Tribal Court to issue conservatorships and guardianships over tribal members and other persons subject to the jurisdiction of the Tribal Court. This Ordinance establishes a formal procedure enabling the Tribal Court to provide for the protection of the property and welfare of persons closely tied to the Reservation.

14.501 Definitions.

For the purpose of this Chapter, the words and phrases listed below shall have the following meanings:

- (1) "Conservator" means a person appointed as caretaker and protector of the person and/or estate of an Incapacitated Adult, with the duties and powers described in this Ordinance.
- (2) "Court Clerk" or "Clerk" means the Clerk of the Hopland Tribal Court.
- (3) "Family Member" means a parent, grandparent, spouse, lineal descendent, sibling, half-sibling, or adopted child.
- (4) "Guardian" means a person appointed as custodian and protector of the person and/or estate of a Minor, with the duties and powers described in this Ordinance.
- (5) "Incapacitated Adult" means a person age 18 or older who has been found by a court to suffer from a mental or physical illness or disability,

developmental disability, mental deficiency, advanced age, chronic use of drugs or alcohol, traumatic brain injury, or any other cause to the extent that the individual lacks sufficient understanding, insight or capacity, without the assistance of a conservator, to make or communicate responsible decisions concerning his or her personal affairs, to meet the essential requirements for his or her health, care, safety, or therapeutic needs, to manage his or her property or financial affairs, to provide for his or her support, or to provide for the support of legal dependents.

- (6) "Indian" means, unless otherwise specified, a member of the Hopland Band of Pomo Indians, any person who is a member of a state or federally recognized Indian tribe, or any other person residing on or near the Hopland Indian Reservation who is recognized by the community as an Indian.
- (7) "Interested Persons" means the children, including adopted children, parents, siblings, half-siblings, and spouse of the proposed Ward; any known creditors of the proposed Ward; the Director of the Tribal Social Services Department; and the Tribal Attorney.
- (8) "Judge" or "Tribal Judge" means any Judge of the Tribal Court.
- (9) "Minor" means an unmarried person who is younger than eighteen (18) years of age.
- (10) "Ordinance" means an ordinance of the Tribal Council of the Hopland Band of Pomo Indians granting to the Tribal Court the authority to issue conservatorships and guardianships.
- (10) "Reservation" means all land within the exterior boundaries of the Hopland Indian Reservation, including any land held in trust for the Tribe or its members by the United States.
- (11) "Tribal Court" means the Tribal Court of the Hopland Band of Pomo Indians.
- (12) "Tribe" means the Hopland Band of Pomo Indians.
- (13) "Ward" means a person for whom a Guardian or Conservator has been appointed.

14.503 Jurisdiction.

The Tribal Court shall have jurisdiction to appoint Conservators or Guardians for members of the Hopland Band of Porno Indians and for other persons over whom the Tribal Court has jurisdiction.

14.504 Commencement of Proceedings.

Proceedings for the appointment of a Conservator or Guardian shall be commenced in Tribal Court by the filing of a petition in the form prescribed by the Court.

14.505 Persons Entitled to File Petitions.

The following persons are entitled to file a petition for the appointment of a Conservator or Guardian:

- (1) A Family Member of the Ward;
- (2) A Tribal Social Worker or his or her designee;
- (3) A Tribal Attorney admitted to practice in the Hopland Tribal Court.
- (4) Family Friend.

14.506 Contents of Petition.

A petition for the appointment of a Conservator or Guardian shall contain the following information:

- (1) The full name, address, and tribal affiliation of the petitioner;
- (2) The full name, sex, age, address and tribal affiliation of the proposed Ward;
- (3) The basis for the Court's jurisdiction;
- (4) The reasons that the appointment of a Conservator or Guardian is necessary;
- (5) The name, age, address and tribal affiliation of the proposed Guardian or Conservator and the relationship of the proposed Guardian or Conservator to the proposed Ward. If an alternate proposed Guardian or Conservator is proposed, the same information should be provided for the alternate;

- (6) If conservatorship or guardianship over the estate is requested, a full description and statement of value of all property owned, possessed, or in which the proposed Ward has an interest.

14.507 Notice of Proceedings.

1. Upon the filing of the petition for the appointment of a Conservator or Guardian, the Tribal Court will set the matter for hearing. The hearing will be scheduled within twenty (20) court days of the filing of the petition.

2. Within ten (10) court days of filing a petition for the appointment of a Conservator or Guardian, the petitioner shall cause to be served notice of the proceedings to the following Interested Persons:

- (1) The children, parents, adult siblings and spouse of the proposed Ward;
- (2) If the petition is for the appointment of a Conservator or Guardian of the estate, to any known creditors of the Ward;
- (3) The Director of the Tribal Social Services Department or his or her designee;
- (4) The Tribal Attorney.

3. Notice shall be served either personally or by written notice sent by first class mail. After giving the notice required by this section, the petitioner shall file a certificate of mailing under penalty of perjury in the Tribal Court showing the names and addresses of all notice recipients and the date of mailing.

14.508 Preference in Appointing Conservator or Guardian.

The parent or parents of an Incapacitated Adult, if qualified and suitable, shall be preferred for appointment as Conservator for the proposed Ward. A second preference shall be made for the adult children of the proposed Ward. Notwithstanding the previous preferences of this section, the Tribal Court may appoint a Conservator or Guardian who is most suitable and willing to serve, considering factors including, without limitation:

- (1) Any request for the appointment as Conservator or Guardian for a proposed Ward contained in a written instrument executed by the proposed Ward while competent;

- (2) Any request for the appointment as Conservator or Guardian for a proposed Ward contained in a will or other written instrument executed by a parent of the proposed Ward;

Any request for the appointment as a Conservator or Guardian for a Minor thirteen (13) years of age or older made by the Minor;
The relationship by blood or marriage of the proposed Conservator or Guardian to the proposed Ward;

- (5) The ability of the proposed Conservator or Guardian to carry out the duties identified in this Ordinance in light of:
- a. The complexity of the proposed Ward's estate;
 - b. The criminal, educational, and credit background of all possible Conservators or Guardians;
 - c. The geographic distance between the proposed Conservator or Guardian and the proposed Ward;
 - d. The ability of the proposed Conservator or Guardian to preserve and promote the Ward's relationship to the Tribe, including transporting the Ward to tribal cultural events.

14.509 Hearings; Notice.

The Tribal Court shall conduct a hearing to consider the appointment of a Conservator or Guardian. At the hearing, Interested Persons shall be entitled to appear and present testimony and other evidence. Notice of the hearing shall be provided by first class mail at least ten (10) court days before the hearing to any known Interested Persons.

14.510 Temporary Orders.

When necessary for the protection of the proposed Ward or the Ward's property, the Tribal Court may issue any temporary order appointing a Conservator or Guardian pending a formal hearing. The temporary order shall be effective for no longer than sixty (60) days.

14.511 Spokesperson.

Upon request, or upon its own motion, the Tribal Court may appoint a Spokesperson to represent the proposed Ward in proceedings governed by this Ordinance.

14.512 Home Evaluations; Physical and Mental Examinations.

Upon request, or upon its own motion, the Tribal Court may order the proposed Ward to be examined by a physician, psychologist, Tribal Social Worker, and/or other person. The Tribal Court may also order a home study of the home of the proposed Conservator/Guardian. The Court shall require that the results of any such examination or home evaluation be submitted in a written report to the Tribal Court within a specified period of time.

14.513 Findings; Appointment.

1. The Tribal Court may appoint a Conservator or Guardian, as requested by the petitioner, if the Court finds that:

- (a) The proposed ward is either a Minor or Incapacitated Adult;
- (b) The appointment is necessary or desirable as a means of providing continuing care and supervision of the proposed Ward and/or the property of the proposed Ward; and,
- (c) The proposed Conservator or Guardian is both qualified and suitable, and is willing to serve.

2. Based on the information provided to the Tribal Court, the Court's Conservatorship or Guardianship appointment shall be no more restrictive upon the liberty of the Ward than is reasonably necessary to protect the Ward.

14.514 Issuance of Court Order and Letters.

Upon appointing a Conservator or Guardian, the Tribal Court shall enter an order of appointment and shall issue Letters of Conservatorship or Guardianship.

14.515 Effect of Accepting Appointment as Conservator or Guardian.

The Conservator or Guardian must accept the appointment in writing. By accepting appointment, a Conservator or Guardian, regardless of whether he or she is a resident of the Reservation or a tribal member, submits personally to the jurisdiction of the Tribal Court in any proceeding relating to the conservatorship or guardianship.

14.516 Investigation of Ward's Estate.

Within sixty (60) days of the appointment, the Conservator or Guardian of the estate must conduct a due diligence investigation of the Ward's estate. The

Conservator or Guardian must mail notice of the appointment to all known creditors. The notice must include the name and date of birth of the Ward, all relevant account or policy numbers, and the full name, address and telephone number of the Conservator or Guardian.

14.517 General Powers of Guardians.

1. In the general performance of powers and duties respecting the Ward, a Guardian:
 - (1) May, to the extent that it is consistent with the terms of the Court's order, have custody of the person of the Ward and establish the Ward's place of abode within or without the Reservation.
 - (2) If entitled to custody of the Ward, shall provide for the care, comfort and maintenance of the Ward and, whenever appropriate, arrange for training and education of the Ward. If consistent with the Court's order, the Guardian shall also take reasonable care of the Ward's clothing, furniture, vehicles, and other personal effects and property and begin protective proceedings if other property of the Ward is in need of protection.
 - (3) May consent to or approve any necessary medical or other professional care, counsel, treatment or service for the Ward.
 - (4) May do all other things necessary for the protection of the Ward.
2. A Guardian is not liable to third persons for acts of the Ward solely by reason of the Guardian and Ward relationship.

14.518 General Powers of Conservators.

1. In addition to the general powers of a Guardian of the person as set forth above, a Conservator, acting reasonably, may also act without Tribal Court authorization or confirmation, to:
 - (1) Collect, hold and retain assets of the estate including land wherever situated, until, in his or her judgment, disposition of the assets should be made, and the assets may be retained even though they include an asset in which he is personally interested;
 - (2) Receive additions to the estate;
 - (3) Continue or participate in the operation of any business or other enterprise;

- (4) Deposit estate funds in a bank;
- (5) Insure the assets of the estate against damage or loss and the Conservator against liability with respect to third persons;
- (6) Pay taxes, assessments, reasonable compensation of the Conservator, and other expenses incurred in the collection, care, administration and protection of the estate;
- (7) Pay any sum distributable to a Ward or dependent of the Ward by paying the sum to the distributee or by paying the sum for the use of the distributee either to his guardian or if none, to a relative or other person with custody of his person, subject to any programming requirements that may be established by the Court; and,
- (8) Execute and deliver all instrument which will accomplish or facilitate the exercise of the powers vested in the Conservator.

2. A Conservator is not liable to third persons for acts of the Ward solely by reason of the Conservator and Ward relationship.

14.519 Powers of Conservator Pursuant to Tribal Court Order.

Upon authorization by the Tribal Court a Conservator may exercise the following powers:

- (1) Acquire an undivided interest in any estate asset in which the Conservator, in any fiduciary capacity, holds an undivided interest;
- (2) Invest and reinvest estate assets and funds as would a trustee;
- (3) Acquire or dispose of an estate asset including non-trust land wherever situated for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset in connection with the exercise of any power vested in the Conservator;
- (4) Make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new walls or buildings;
- (5) Vote a security, in person, or by general or limited proxy;

- (6) Employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the Conservator to advise or assist him or her in the performance of his or her administrative duties, to act upon their recommendation without independent investigation, and instead of acting personally, to employ one or more agents to perform any act or administration, whether or not discretionary;
- (7) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of estate assets and of the Conservator in the performance of his or her duties; and
- (8) Prosecute claims of the protected person, including those for his or her personal injury.

14.520 Disbursement of Per Capita Payments.

1. A Conservator or Guardian may petition the Tribal Court for the authority to expend or distribute an appropriate portion or all of the income or principal of the per capita payment of the Ward being held for the benefit of that Ward in accordance with the Tribal Gaming Revenue Allocation Plan for the support, maintenance, education, general use and benefit of the Ward and the Ward's dependents. Such a distribution or expenditure shall be made in a reasonable manner and to the extent that the Guardian or Conservator in an exercise of a reasonable discretion deems suitable and proper, with or without regard to any other funds, income or property which may be available for that purpose.

2. In considering any petition filed under this section, the Tribal Court shall consider:

- (1) The size of the Ward's estate;
- (2) The probable duration of any conservatorship or guardianship and the likelihood that the Ward, at some future time, may be fully able to manage his or her affairs and the estate which has been conserved for him or her;
- (3) The accustomed standard of living of the Ward and members of the Ward's household;
- (4) Recommendations relating to the appropriate standard of support, education and benefit for the Ward made by a parent or guardian of the person, if any,

(5) The policy and requirements of the Gaming Revenue Allocation Plan.

14.521 Reports to the Tribal Court.

The Conservator or Guardian must submit an Annual Report to the Tribal Court in the form prescribed by the Court. The Tribal Court may require the Conservator or Guardian to submit periodic reports more frequently.

14.522 Bonds.

The Tribal Court may, in its sole discretion, require the posting of a bond by a Conservator or Guardian of the estate in an amount to be determined by the Tribal Court.

14.523 Termination or Removal of Conservatorship and/or Guardianship.

1. Upon the motion of any person, or the Tribe, the Tribal Court may provide notice and a hearing on whether to terminate a guardianship or conservatorship. Grounds for termination shall include, without limitation, personal use by the Guardian or Conservator of the assets of the Ward, failure to provide a reasonable level of care for the Ward, the marriage of a Minor Ward, or other grounds as determined in the reasonable discretion of the Tribal Court. The Tribal Court, in its sole discretion, may waive the notice provisions if it finds that an emergency exists.

2. The Tribal Court may, in conjunction with issuing an order terminating the guardianship or conservatorship, require the Conservator or Guardian to provide a full accounting of the financial affairs of the Ward. The Tribal Court may also require that an audit of the Ward's financial affairs be conducted prior to the termination of the conservatorship or guardianship.

3. Guardianships shall terminate automatically upon a Minor reaching eighteen (18) years of age. A Conservatorship shall terminate automatically if the Tribal Court adjudges the Ward to no longer be an Incapacitated Adult.

14.524 Accounting; Audits.

The Tribal Court may, upon request or upon its own motion, require the Conservator or Guardian to provide a full accounting of the financial affairs of the Ward. The Tribal Court may also require that an audit of the ward's financial affairs be Conducted. An accounting or audit shall not be required more than once each year.

14.525 Resignation of Conservator or Guardian.

Persons desiring to resign as a Conservator or Guardian shall submit their resignation in writing to the Tribal Court. Subject to any Court-ordered accounting of the Ward's estate, the Tribal Court may accept the resignation after a showing that no other actions in the interim are necessary to protect the Ward or the Ward's estate.

14.526 Penalties.

Any Conservator or Guardian who steals, diverts, or grossly abuses the funds or property of a Ward, or who knowingly or recklessly abuses a Ward, or neglects a Ward's rights under this Ordinance or any other Tribal law, may be civilly fined up to \$1,000.00 dollars per occurrence by the Tribal Court. The Court may also make an order of restitution, or any other order it deems just and proper. The Conservator or Guardian may also be subject to criminal prosecution under California law and/or Hopland Tribal law.

14.527 Amendment.

This Ordinance may be amended at any time by the Tribal Council in accordance with Tribal law.

14.528 Severability.

If any section or provision of this Ordinance is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section or provision of this Ordinance.

14.529 Sovereign Immunity.

The Tribe's sovereign immunity shall not be waived or limited in any manner by this Ordinance.

14.530 Effective Date.

This Ordinance shall take effect immediately upon its passage by the Tribal Council.

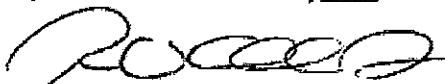
14.531 Repealer.

This Ordinance supersedes, replaces, and repeals all conflicting provisions of any and all prior laws, codes, ordinances, rules, and regulations of the Hopland Band


of Pomo Indians. If the provisions of this Ordinance conflict with the provisions of any other law, code, ordinance, rule or regulation, the provisions of this Ordinance will control.

CERTIFICATION

We, Roman W. Carrillo, Tribal Chair, and Pamela Espinoza, Tribal Secretary, serving in our official capacities for the Hopland Band of Pomo Indians, hereby certify that the foregoing Ordinance was enacted by a vote of 5 in favor, 0 against, and 0 disqualified, at a duly-noticed meeting of the Tribal Council with a quorum present held on February 15, 2008 at the Hopland Indian Reservation.



Roman W. Carrillo, Jr., Tribal Chair



Pamela Espinoza, Tribal Secretary

IN THE TRIBAL COURT OF THE
HOPLAND BAND OF POMO INDIANS

In the Matter of the Protected Proceeding of

Respondent

NOTICE OF HEARING AND PETITION FOR APPOINTMENT
OF

- ☐ GUARDIAN
☐ CONSERVATOR
☐ TEMPORARY GUARDIAN
☐ TEMPORARY CONSERVATOR

Case Number

Hearing Date and Time

FOR THE ☐ PERSON ☐ ESTATE OF THE RESPONDENT

1. Petitioner (Name): (Tel.):
 Tribal Affiliation: Roll No.
 (Address):

is ☐ a family member of the Respondent (specify relationship):
 ☐ a Tribal Social Worker/Designee
 ☐ Tribal Attorney admitted to practice in the Hopland Tribal Court.

2. Respondent is: (Check one)
 ☐ under the age of 18 and is unmarried
 ☐ under the age of 18 and is married
 ☐ an Adult

 (Name): _____ (Sex):
 (Present Address):
 (Telephone): DOB:
 Tribal Affiliation: Roll No.

- 3 Petitioner requests that the following person be appointed as the ☐ Guardian ☐ Conservator
 ☐ Temporary Guardian ☐ Temporary Conservator:

(Name):

DOB:

(Address):

(Telephone):

(Relationship to Respondent):

Tribal Affiliation:

Roll No.

In the alternative, Petitioner requests that the following person be appointed as the ☐ Guardian

☐ Conservator ☐ Temporary Guardian ☐ Temporary Conservator:

(Name):

DOB: _____

(Address):

(Telephone):

(Relationship to Respondent):

Tribal Affiliation:

Roll No.

4. Jurisdictional facts: The Respondent has no ☐ guardian ☐ conservator and ☐ is ☐ is not a resident of the Hopland Reservation and ☐ is ☐ is not a member of the Hopland Band of Pomo Indians and ☐ is ☐ is not a person the Hopland Tribe recognizes as an Indian.

☐ Other basis for Tribal Court jurisdiction:

5. The Respondent lacks sufficient understanding, insight or capacity:

- ☐ to make or communicate responsible decisions concerning his or her personal affairs;
- ☐ to meet the essential requirements for his or her health, care, safety or therapeutic needs; ☐ to manage his or her property or financial affairs;
- ☐ to provide for his or her support; or
- ☐ to provide for the support of legal dependents

because:

and therefore requires the appointment of ☐ guardian ☐ conservator.

Case No.

6. ☐ Petitioner does not seek conservatorship or guardianship over the Respondent's estate; or
- ☐ Petitioner does seek ☐ conservatorship or ☐ guardianship over the Respondent's estate and a full description of and a listing of the value of all property owned or possessed by Respondent, or in which Respondent has an interest, is contained in Exhibit A which is attached to this Petition. A general description of Respondent's property and income is as follows:

Estimated value of personal property:	\$
Estimated value of real property:	\$
Total:	

Annual gross income from	
(a) real property:	\$
(b) personal property:	\$
(c) pensions:	\$
(d) wages:	\$
(e) public assistance benefits	\$
(f) Per Capita payments	\$
(g) Other	\$
Total:	\$

8. Interested Persons: The names and mailing addresses of the Respondent's children, including adopted children, parents, siblings, half siblings, spouse; and any known creditors are listed in Exhibit B, which is attached to this Petition.

I, _____, declare under penalty of perjury that the foregoing is true and correct.

(Date)

(Signature of Petitioner)

TITLE 15
SECTION 1

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE CULTURAL RESOURCES
MANAGEMENT AND PROTECTION CODE

("PROHIBITING THE ILLEGAL COLLECTION, USE, OR DESTRUCTION
OF CULTURAL RESOURCES WITHIN THE HOPLAND RESERVATION")

Section Index:

Short Title
Purpose
Definitions
Declarations and Findings
Designation of Authority
Inventory, Cataloging, and Mapping of Cultural Resources
Collection, Removal, Excavation, Use, Alteration, Impairment, Destruction and
Discovery of Cultural Resources
Administrative Remedies
Civil Damages
Traditional Dispute Resolution ("Peace Keeping Court") 11: Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.101. This Code shall be known as the "Cultural Resources Management and Protection Code".

Purpose.

15.102. The unauthorized collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources under this Code shows disrespect for the natural and cultural resources of the Reservation, and for the cultural heritage, history, traditions, and knowledge of the Hopland people, and for the Reservation community; it damages the Reservation's scarce cultural resources, causes irreparable damage to the Tribe's ability to transmit its cultural heritage, history, traditions, and knowledge to future generations, and irreparably harms the land and the environment. Therefore, the unauthorized collection, removal, excavation, use,

alteration, impairment or destruction of cultural resources is prohibited within the exterior boundaries of the Hopland Reservation.

Definitions.

15.103. "Cultural Resources" are defined as any material remains of past human life or its associated activities which are of archaeological, historical, or cultural interest to the Tribe. Such material remains shall include, but are not limited to, abalone shells, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of dwellings, burial sites, cemeteries, human skeletal remains, associated or unassociated funerary objects, clothing, artwork, ceremonial objects, sacred objects, or any part of these items.

15.104. A "burial site" is defined as any place of interment, by any means, whether originally below, on, or above the surface of the earth, where human remains or associated funerary objects are deposited, as part of the death rites or ceremonies of the Tribe.

15.105. A "cemetery" is defined as a burial site in which two or more individuals are or were interred.

Declarations and Findings.

15.106. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to manage and regulate its cultural resources in a manner which best protects the Hopland Reservation, its natural and cultural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.107. The Tribe also has the authority to manage and regulate its cultural resources in a manner which best protects the cultural heritage, history, traditions, and knowledge of the Hopland people on its aboriginal lands outside of the exterior boundaries of the Hopland Reservation. The Tribe will use its authority to the furthest extent possible under both tribal and federal law to protect and preserve its cultural resources. Examples of federal laws that the Tribe may use to protect and preserve its cultural resources include the following:

15.107.1. The Native American Graves Protection and Repatriation Act of 1990 ("NAGPRA") (25 U.S.C. § 3001-3013) requires tribal consent prior to the intentional excavation of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony ("cultural items") on federal and tribal lands. The NAGPRA also requires that a person who makes an inadvertent discovery of Native American human remains and cultural items on federal or tribal lands must immediately notify the Tribe, stop work, and protect the human remains and cultural items. The NAGPRA also empowers Tribes to repatriate their sacred cultural items and human remains from museums and federal agencies.

15.107.2. The Archaeological Resources Protection Act of 1979 ("ARPA") (16 U.S.C. § 470(aa) *et seq.*) requires that a permit is obtained prior to the excavation or removal of any archaeological resource located on public lands or Indian lands, including private lands within the exterior boundaries of any Indian Reservation.

15.107.3. The National Historic Preservation Act of 1966 (16 U.S.C. § 470 *et seq.*) declares that it is a national policy to work in partnership with Indian tribal governments to protect cultural resources.

15.107.4. The American Indian Religious Freedom-Act of 1978 (42 U.S.C. § 1996) declares that it is a national policy to promote the inherent right of Native Americans to believe, express, and exercise their traditional religions, including access to ceremonial sites, the use and possession of sacred objects, and the freedom to worship through traditional ceremonies at traditional sacred sites.

15.108. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, cultural and natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.109. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe, and, accordingly, to maintain the environment and protect the cultural and natural resources of the Tribe.

15.110. It is necessary to adopt this Code to protect cultural resources within the Hopland Reservation. Specifically, this Code addresses the collection, removal, excavation, use, alteration, impairment or destruction of cultural resources.

15.111. This Code adopts a permitting scheme, including the assessment of civil fines and damages for non-compliance with the permitting process. This Code is enacted to protect and preserve these significant cultural resources, ensuring that future generations will benefit from the continued existence of such cultural heritage, history, traditions, and knowledge.

15.112. In addition to protecting cultural resources to ensure their preservation for future generations, this Code is also adopted to inventory, document, and catalog all cultural resources on the Reservation. Such documentation will include: a) inventorying and cataloguing cultural resources; and, b) mapping the location of such cultural resources.

15.113. This Code is further adopted to encourage the incorporation of cultural resources into Tribal Programs.

Designation of Authority to the Tribal Environmental Protection Agency.

15.114. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life, and cultural and natural resources for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to the protection and management of cultural resources, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management of cultural resources. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here, and shall work in conjunction with the Tribal Council and other Tribal Departments in carrying out this Code.

15.115. The EPA shall develop and manage the Tribe's comprehensive Cultural Resources Management and Protection Program; shall communicate to the community information about the Tribe's comprehensive Cultural Resources Management and Protection Program; and shall make reports in a manner, and containing such information, as the Tribe approves regarding the development and management of this Program.

15.116. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life, and cultural and natural resources for future generations. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Cultural Resources Management and Protection Program in accordance with the Tribe's Environmental Master Plan.
- B. Develop processes which incorporate both technical environmental and archaeological cataloguing standards for cultural resources management, protection, and preservation, and the customs and traditions of the Hopland people.
- C. Inventory, catalog, and map all cultural resources on the Hopland Reservation.
- D. Use existing sources of information to cross-reference and enhance these maps of cultural resources, such as may be maintained by museums, educational institutions, and federal and state agencies.
- E. Prepare environmental and archaeological reports regarding such cultural resources as needed.
- F. Develop a mechanism to ensure continued community involvement and input in the Tribe's Cultural Resources Management and Protection Program. Specifically, those Tribal members with cultural knowledge regarding the identification and use of traditional or culturally significant cultural resources should be consulted.
- G. Approach the Tribal Technical Assistance Program, or similarly oriented nonprofit groups, educational institutions, museums, agencies, and tribal organizations, for assistance in cultural resources inventories. Cultivate partnerships with such groups or agencies in order to better address cultural resources management, protection and preservation.
- H. identify, investigate, and apply for private funds, federal or state grants, and

financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for cultural resources protection and management

- I. Train "cultural monitors" to monitor any construction, development, archaeological study, excavation, or ongoing activity on and around the Hopland Reservation.
- J. Develop a permitting process for the collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources on the Hopland Reservation.

Inventory, Cataloging, and Mapping of Cultural Resources.

15.117. The EPA, in conjunction with such other agencies, nonprofit groups, and community members as they see fit, will inventory, catalog, and map all cultural resources on the Reservation.

15.118. The EPA will make an inventory of, and create a catalogue with a list of, all cultural resources on the reservation. To the furthest extent possible, the EPA will incorporate community input, especially input from those members with knowledge of the cultural significance and traditional uses of such cultural resources, in developing this list. A copy of the final catalog list will be maintained at the Tribal EPA Office.

15.119. The EPA will make maps of the locations of such inventoried and catalogued cultural resources. These maps will also be maintained at the Tribal EPA Office.

15.120. The maps of such cultural resources shall remain confidential and shall not be accessible to the general public, unless the request is accompanied by an approved Tribal permit in accordance with this Code.

Collection, Removal, Excavation, Use, Alteration, Impairment, Destruction, and Discovery of Cultural Resources.

15.121. Any collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources, including parts of such cultural resources, must be done in accordance with the regulations established by the Hopland EPA's Cultural Resources Management and Protection Program.

15.122. The EPA may authorize by permit the collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources, including the parts of such cultural resources.

15.123. The collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources within the Hopland Reservation without a permit issued by the Hopland EPA is prohibited.

15.124. Any person who collects, removes, excavates, uses, alters, impairs, or destroys cultural resources without an EPA permit is subject to civil fines and damages.

15.125. Duty to Report Discoveries: Any person who intentionally or unintentionally discovers, alters, impairs, or destroys a cultural resource, or any part thereof; within the exterior boundaries of the Hopland Reservation has a duty to immediately report such matters to the Hopland EPA and the Tribal Council. If the incident occurred in connection with an ongoing activity, including, but not limited to, construction, mining, logging, and agriculture, the person shall immediately cease the activity, make reasonable efforts to protect the discovered items, and shall not resume the activity until the Tribe has certified that it may do so in writing.

15.125.1. Stop Work Orders: If the EPA receives a credible report from any person that has reason to believe that a cultural resource, or any part thereof, has been inadvertently discovered, altered, impaired or destroyed in relation to any construction or ongoing activity within the exterior boundaries of the Hopland Reservation, regardless of whether or not a Tribal permit has been obtained, the Tribal EPA, in conjunction with the Tribal Police Department, shall immediately issue a "Stop Work Order" until the EPA has determined that the cultural resource(s) can be adequately protected, preserved, removed, or excavated, as appropriate. No work shall resume on any construction project or ongoing activity until the Tribal EPA has certified that the cultural resource has been adequately protected, preserved, removed, or excavated, and that it is appropriate to resume the activity.

15.126. Cultural Monitors: The EPA has the authority to issue a permit requiring that a cultural monitor is present for construction, an archaeological study or excavation, or any other ongoing activity that may impact the Tribe's cultural resources. The permit would require that a "cultural monitor" be present during all significant phases of the construction, study, excavation, or ongoing activity, including, but not limited to, surveying, grading, and preparing the site for the actual construction, study, excavation, or ongoing activity. The party obtaining the permit will bear the cost of the cultural monitor.

15.127. Archaeological Studies and Excavations: In addition to obtaining an EPA permit, any intentional or inadvertent excavation and removal of Native American human remains, funerary objects, and cultural items within the exterior boundaries of the Hopland Reservation shall comply with the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. § 3001-3013) and the Archaeological Resources Protection Act of 1979 (16 U.S.C. § 470 (aa) *et seq.*). Tribal law shall govern in the case of a conflict of law.

15.128. Duty to Notify: All persons within the exterior boundaries of the Hopland Reservation have a duty to notify the EPA and the Tribal Council if any construction, archaeological study or excavation, or any other ongoing activity that may impact the Tribe's cultural resources is considered. This will ensure that the protection of the Tribe's cultural resources is considered prior to the commencement of any activity that could impact such resources, regardless of whether such activity is undertaken on trust or fee land.

15.129. Duty to Investigate: The EPA has a duty to investigate the unauthorized collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating groups or agencies, perform a thorough investigation of any alleged violations. The EPA shall have the right to enter any area alleged to be the site of such unauthorized collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources in order to fulfill its duty to investigate.

Administrative Remedies.

15.130. If appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized collection, removal, excavation, use, alteration, impairment, or destruction of cultural resources through its administrative process, as outlined below. The EPA reserves the right to bypass the administrative process and file a civil action at any time.

15.131. Citation: If appropriate, the EPA will issue a written citation to the offender alleging that he or she has violated this Code. The citation will explain in plain terms what conduct has violated the Code. The citation should include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to avoid the imposition of further penalties and fines.
- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss in more detail the reasons that the conduct violated the Code.
- I. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must be received by the EPA.

15.132. A record of all citations will be maintained. If a citation has already been issued to the offender, subsequent citations may increase in seriousness; for example, subsequent citations may impose greater fines for non-compliance, or may require that the offender take specific remedial steps, such as site rehabilitation, as determined by the EPA, to avoid further action being taken against the person. The EPA may, in its sole discretion, proceed to file a civil action or injunction against the offender, or take any other action as it deems necessary, at any time.

- A. First Offense: The EPA may, in its sole discretion, impose a fine up to \$500.00 dollars.
- B. Second Offense: The EPA may, in its sole discretion, impose a fine up to \$1000.00 dollars.
- C. Third Offense: The EPA may, in its sole discretion, impose a fine up to \$3000.00 dollars.

15.133. Administrative Appeal: If, after receiving a citation, the alleged offender believes that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the written warning. The appeal must clearly state why the person believes that he or she has not violated the Code, and may include any supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

- A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,
- B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender and placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.134. Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including the costs of any site rehabilitation and preservation and protection of cultural resources undertaken by the Tribe, and reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, in addition to, at the court's discretion, a civil penalty in an amount up to \$500.00 for each day of each violation.

15.135. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.136. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

15.137. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.138. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court".

15.139. Any person over whom the Tribe retains the inherent sovereign power to exercise civil jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court".

15.140. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil jurisdiction, notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court", as an alternative to the Tribal Court, within thirty (30) days of receipt of the notice of the pending action.

15.141. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrated that it was not in the best interests of the Tribe, in accordance with section 15.141. The Tribal Court will then provide notice to all relevant parties that the request to transfer to the "Peace Keeping Court", as established by the Tribal Council, has, or has not, been approved.

15.142. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.143. The Tribal Court will retain continuing jurisdiction over any action transferred to the "Peace Keeping Court".

Arbitration and Mediation.

15.144. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.145. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied within two (2) weeks of the date of such a request.

Severability.

15.146. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.147. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

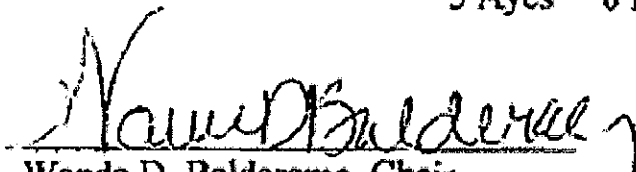
Effective Date, Amendment.

15.148. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date

TITLE 15
SECTION 2

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE PESTICIDE MANAGEMENT AND PROTECTION CODE

("PROHIBITING THE UNAUTHORIZED USE, APPLICATION, STORAGE AND DISPOSAL
OF PESTICIDES WITHIN THE HOPLAND RESERVATION")

Section Index:

Short Title
Purpose
Definitions
Declarations and Findings
Designation of Authority
Assessment and Inventory of Pesticides
Use, Application, Storage, and Disposal of Pesticides
Administrative Remedies
Civil Damages
Traditional Dispute Resolution ("Peace Keeping Court")
Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.201. This Code shall be known as the "Pesticide Management and Protection Code."

Purpose.

15.202. The unauthorized use, application, storage and disposal of pesticides under this Code shows disrespect for the natural resources of the Reservation, and for the Reservation community; it damages the Reservation's scarce natural resources and harms the health, welfare and safety of Hopland residents; it causes irreparable damage to the land, environment, and the Hopland community. Therefore, the unauthorized use, application, storage and disposal of pesticides are prohibited within the exterior boundaries of the Hopland Reservation.

Definitions.

15.203. "Pesticide" is defined as any substance, or mixture of substances, which is intended to be used for defoliating or desiccating plants, regulating plant growth, or for preventing,

destroying, repelling, or mitigating any pest, which may be detrimental to vegetation, animals, humans, or households, or be present in any agricultural or nonagricultural environment. This definition includes spray adjuvants, with or without toxic properties of its own, which are intended to be used with another pesticide as an aid to the application or effect of the other pesticide, and that is sold separately from the pesticide with which it is used. Any nitrogen stabilizer is also included within this definition.

15.204. "Pesticide Spray Drift" is defined as the physical movement of a pesticide through air at the time of application, or soon thereafter, to any site other than that intended for application ("off target" application).

15.205. "Toxicity Category I Pesticide" or "Toxicity Category II Pesticide" or "Toxic Pesticide" is defined as any pesticide that meets the United States Environmental Protection Agency criteria for Toxicity Category I or II under the Code of Federal Regulations, Title 40, Part 156.

15.206. "Toxic Air Pollutant" is defined as a pesticide found in ambient air with a concentration that could adversely affect human health, or with a concentration that poses a risk that human health is adversely affected.

15.207. "Chemigation" is defined as a method of irrigation whereby a pesticide is mixed with irrigation water before that water is applied to the crop or to the soil.

Declarations and Findings.

15.208. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to conserve, manage, protect and regulate its resources in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.209. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.210. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe, and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.211. It is necessary to adopt this Code to protect natural resources and human health and welfare within the Hopland Reservation. The health and economic prosperity of communities in

proximity to agricultural lands is threatened by the risks of contaminated drinking water and air due to the use of pesticides. Such contamination could lead to adverse health affects and environmental degradation. Therefore, this Code addresses the unauthorized use, application, storage, and disposal of pesticides on and near the Tribe's lands.

15.212. This Code adopts a permitting scheme, including the assessment of civil fines and damages for non-compliance with the permitting process. This Code is enacted to protect the health and welfare of the Hopland community, as well as to protect the Reservation's natural resources for future use and conservation, ensuring that future generations will benefit from the continued existence of natural resources.

Designation of Authority to the Tribal Environmental Protection Agency.

15.213. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to the use of pesticides, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper use, application, storage and disposal of pesticides on and near the Hopland Reservation. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here, and shall work in conjunction with the Tribal Council and other Tribal Departments in carrying out this Code.

15.214. The EPA shall develop and manage the Tribe's comprehensive Pesticides Management and Protection Program; shall communicate to the community information about the Tribe's Program; and shall make reports in a manner, and containing such information, as the Tribe approves regarding the development and management of this Program.

15.215. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of the improper use, application, storage and disposal of pesticides. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Pesticides Management and Protection Program in accordance with the Tribe's Environmental Master Plan.
- B. Develop processes which incorporate both technical environmental cataloguing standards for proper pesticide use, application, storage, and disposal and the customs and traditions of the Hopland people.
- C. Perform comprehensive assessments of pesticide use, application, storage, and disposal on and near the Hopland Reservation.
- D. If appropriate, assess and inventory the presence of pesticide levels in the Reservation's water resources.
- E. If appropriate, assess and inventory the presence of pesticide levels in the Reservation's ambient air.
- F. Establish working relationships with neighboring agricultural landowners to encourage joint stewardship efforts towards responsible pesticide use,

- application, storage, and disposal.
- G. Prepare environmental reports regarding pesticides as needed.
 - H. Develop a mechanism to ensure continued community involvement and input in the Tribe's Pesticides Management and Protection Program.
 - I. Approach the appropriate non-profit groups or agencies for assistance in pesticide assessment, inventory, monitoring, and use. Cultivate partnerships with such groups or agencies in order to better address pesticide use, application, storage, and disposal.
 - J. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for pesticide management and protection.
 - K. Develop a permitting process for the use, application, storage, and disposal of pesticides on the Hopland Reservation.

Assessment and Inventory of Pesticides.

15.216. The EPA, in conjunction with such other agencies, nonprofit groups, and community members as they see fit, will assess, inventory, and monitor the Reservation's pesticide levels through water quality sampling and analysis, air quality sampling and analysis, soil quality sampling and analysis, and such other sampling, measurements, and analysis as is necessary.

15.217. The EPA will assess and inventory pesticide use, application, storage and disposal on the Reservation, as needed.

15.218. To the extent that it is practical to do so, the EPA will assess and monitor pesticide usage, application, storage and disposal on neighboring agricultural lands to ensure that such pesticide usage does not adversely impact the health and welfare of the Reservation community through pesticide spray drift, chemigation backflow into ground waters, the release of toxic air pollutants, or the improper use, application, storage, and disposal of pesticides by any other means, which may adversely affect Reservation lands.

15.219. The EPA will promote the environmental health of the Reservation's resources by educating Tribal members on the hazards and safe handling techniques of pesticides commonly used on the Reservation.

Use, Application, Storage, and Disposal of Pesticides.

15.220. Any use, application, storage, and disposal of pesticides within the exterior boundaries of the Hopland Reservation for non-residential use must be done in accordance with the regulations established by Hopland EPA's Pesticides Management and Protection Program.

15.221. The EPA may authorize, by permit, the use, application, storage, and disposal of pesticides for non-residential uses at established levels.

15.222. The EPA may maintain a list of "exempt" pesticides that may be used on the Reservation without a permit, or that may be used, applied, stored, or disposed of at established levels without a permit, if, in its sole discretion, it determines that such pesticides will not adversely affect the health, safety, and welfare of the Reservation community. This list will be maintained at the Tribal EPA Office.

15.223. The non-residential use, application, storage, and disposal of pesticides without an EPA permit are prohibited on the Hopland Reservation, unless such a pesticide, or the amount of such a pesticide, has been "exempted" from this requirement by the EPA.

15.224. Any person who uses, applies, stores, or disposes of pesticides not duly exempt from this Code without an EPA permit for non-residential uses, including the discharge of pesticides onto the ground, or into the Reservation's water resources and air, is subject to civil fines and damages in accordance with this Code.

15.225. Notice: If a person engaged in non-residential pesticide use without a permit discharges any non-exempt pesticide into any Reservation water resource, into the air, or onto the ground, regardless of whether the pesticide's discharge was intentional or accidental, that person shall immediately notify the EPA of such a discharge and shall fully disclose the information regarding the discharge, including the type of the pesticide, the amount, the location, and any other relevant information.

15.226. Duty to Investigate: The EPA has a duty to investigate the unauthorized use, application, storage, and disposal of pesticides under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating groups or agencies, perform a thorough investigation of any alleged violations.

15.227. Inspections and Entry : The EPA, and any authorized Tribal representative of the EPA, shall be allowed to enter and inspect any area of the Reservation in order to assess, sample, and monitor pesticide levels. Sampling and monitoring will be done at reasonable times for the purposes of assuring that the unauthorized use, application, storage, and disposal of pesticides has not occurred within the exterior boundaries of the Reservation, to ensure permit compliance, or as is otherwise deemed necessary by the EPA. The EPA reserves the right to sample and monitor all natural resources on the Reservation, including water, soil, and air quality, regardless of whether a permit has been requested, a permit has been formally granted, is pending, or has been denied.

15.228. Toxic, Unapproved and Unapproved Uses of Pesticides Banned: Any pesticide Listed as a "Toxicity Category I Pesticide" or "Toxicity Category II Pesticide" under 40 C.F.R. Part 156 is hereby banned from use within the exterior boundaries of the Reservation. Any pesticide determined by the Hopland EPA, in its sole discretion, to adversely impact human and environmental health may be banned from the Reservation after a Notice and Comment period of sixty (60) days. Any pesticide that has not been registered and approved by the United States Environmental Protection Agency in accordance with the Federal Insecticide, Fungicide, and

Rodenticide Act ("FIFRA") (7 U.S.C. § 136 *et seq.*) is also banned within the exterior boundaries of the Reservation. Any pesticide must be used, applied, stored, or disposed of on the Reservation in accordance with federal standards or its approved label. The EPA retains the right to waive, in its sole discretion, these requirements on a case-by-case basis.

15.229. No-Spray Zone ("Buffer Zone"): The EPA shall have the discretion to designate specific areas as "No Spray Zones" or "Buffer Zones." The use, application, storage or disposal of pesticides shall be prohibited in such Zones.

Administrative Remedies.

15.230. if appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized use, application, storage, and disposal of pesticides, including the discharge of pesticides, through its administrative process, as outlined below. The EPA reserves the right to bypass the administrative process and immediately file a civil action.

15.231. Written Warning ("Cease and Desist Order"): If appropriate, and at its sole discretion, the EPA will issue a written warning to the alleged offender that he or she has violated this Code. The written warning will explain in plain terms what conduct has violated the Code, and will require that the individual "cease and desist" from any conduct that results in the alteration, impairment, or destruction of Reservation resources, or that adversely affects the health and welfare of the Reservation community. The written notice should include the following:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. That the individual must "cease and desist" from engaging in any conduct that may result in the alteration, impairment, or destruction of Reservation resources on the Hopland Reservation, or that may adversely affect the health and welfare of the Hopland community.
- F. If applicable, that an individual is in violation of his or her EPA permit.
- G. What steps must be taken to address the violation.
- H. The date by which the person must come into compliance with the Code or the permit to avoid the imposition of further penalties and fines and, if applicable, the revocation of the permit.
- I. The penalties that may be imposed if the offender continues to violate the Code or the permit, including the filing of a civil action and the revocation of the permit.
- J. The contact information for the Tribal EPA, and that an "informal conference" may be requested to discuss the alleged violation.
- K. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must be received by the EPA.

15.232. A record of all warnings will be maintained. If a warning has already been issued to the offender within the calendar year, subsequent warnings may increase in seriousness; for example, subsequent citations may impose fines for non-compliance, or may require that the offender take specific remedial steps, as determined by the EPA, to avoid further action being taken against the person. The EPA may, in its sole discretion, proceed at any time to revoke a permit, file a civil action or injunction against the offender, or take any other action, as it deems necessary.

15.233. Administrative Appeal: If, after receiving a written warning, the alleged offender believes that he or she has not violated the terms of the Code or his or her permit, he or she may appeal the EPA's finding in writing to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the written warning. The appeal must clearly state why the person believes that he or she has not violated the Code or his or her permit, and should include supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

- A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,
- B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender and placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.234. Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including reasonable attorney's fees and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, including the costs of clean-up, abatement, and the administrative costs associated with the enforcement of this Code, in addition to, at the court's discretion, a civil penalty in an amount up to \$500.00 for each day of each violation.

15.235. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.236. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation

suspended or terminated.

15.237. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.238. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court."

15.239. Any person over whom the Tribe retains the inherent sovereign power to exercise civil jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court."

15.240. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil jurisdiction, notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court," as an alternative to the Tribal Court, within thirty (30) days of receipt of the Notice of the pending action.

15.241. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrated that it was not in the best interests of the Tribe, in accordance with section 15.236. The Tribal Court will then provide notice to all relevant parties that the request to transfer to the "Peace Keeping Court," as established by the Tribal Council, has, or has not, been approved.

15.242. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court," the Tribal Court will forward all associated documentation to the "Peace Keeping Court." Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.243. The Tribal Court will retain continuing jurisdiction over any matter transferred to the "Peace Keeping Court."

Arbitration and Mediation.

15.244. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.245. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.246. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.247. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

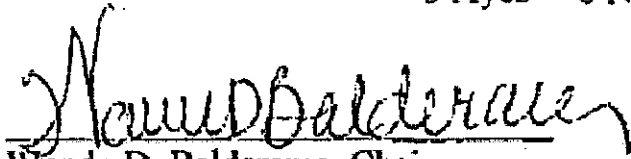
Effective Date, Amendment.

15.248. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date

TITLE 15
SECTION 3

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE PLANT MANAGEMENT AND PROTECTION CODE

("PROHIBITING THE UNAUTHORIZED COLLECTION, USE, OR DESTRUCTION OF
PLANTS THAT ARE NATIVE, THREATENED, ENDANGERED, ENVIRONMENTALLY
SENSITIVE, OR CULTURALLY SIGNIFICANT WITHIN THE HOPLAND RESERVATION")

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Purpose
Definitions
Declarations and Findings
Designation of Authority
Inventory, Documentation, and Cataloging of Plant Species
Collection, Use, or Destruction of Plants
Administrative Remedies
Civil Damages
Traditional Dispute Resolution ("Peace Keeping Court")
Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.301 This Code shall be known as the "Plant Management and Protection Code".

Purpose.

15.302. The unauthorized collection, use, or destruction of native, threatened, endangered, environmentally sensitive, and culturally significant plants ("significant plant life" or "significant plants") under this Code shows disrespect for the natural resources of the Reservation, and for the Reservation community; and, it damages the Reservation's scarce cultural resources and causes irreparable damage to the land and the environment. Therefore, the unauthorized collection, use or destruction of such significant plant life is prohibited within the boundaries of the Hopland Reservation.

Definitions.

15.303. "Significant plant life" and "significant plants" are defined as any native, threatened, endangered, environmentally sensitive, and culturally significant plants within the boundaries of the Hopland Reservation.

15.304. A "recognized gatherer" is defined as an enrolled member of the Hopland Band of Pomo Indians who collects or uses any culturally significant plants within the boundaries of the Hopland Reservation for his or her personal use. A Hopland Tribal member's family member or household member who otherwise meets the definition of a recognized gatherer shall be included within the definition of a recognized gatherer regardless of whether that person is an enrolled member of the Hopland Band of Pomo Indians.

Declarations and Findings.

15.305. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to manage and regulate its plant life and vegetation in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.306. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.307. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe, and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.308. It is necessary to adopt this Code to protect native, threatened, endangered, environmentally sensitive, and culturally significant plant life and vegetation within the Hopland Reservation. Specifically, this Code addresses the collection, use, and destruction of such significant plant life.

15.309. This Code adopts a permitting scheme, including the assessment of civil fines and damages for non-compliance with the permitting process. This Code is enacted to protect these significant plant populations for future use and conservation, ensuring that future generations will benefit from the continued existence of such plants.

15.310. In addition to protecting significant plants to ensure their survival and use for future generations, this Code is also adopted to inventory, document, and catalog all significant plant

life on the Reservation. Such documentation will include: a) inventorying and cataloguing native, threatened, endangered, environmentally sensitive, and culturally significant plants; and, b) mapping the location of such plants.

15.311. This Code is further adopted to encourage the development of a community garden and educational program. This will include: a) cultivating examples of such native or culturally significant plants in a community garden for display; and, b) in conjunction with such a community garden, creating an educational program for youth, and interested persons, on the identification, protection, and traditional uses for such native or culturally significant plants.

Designation of Authority to the Tribal Environmental Protection Agency.

15.312. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to the protection and management of plant life and vegetation, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management of plant life and vegetation. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here, and shall work in conjunction with the Tribal Council and other Tribal Departments in carrying out this Code.

15.313. The EPA shall develop and manage the Tribe's comprehensive Plant Management and Protection Program; shall communicate to the community information about the Tribe's comprehensive Plant Management and Protection Program; and shall make reports in a manner, and containing such information, as the Tribe approves regarding the development and management of this Program.

15.314. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of improper management and protection of significant plant life and vegetation. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Plant Management and Protection Program in accordance with the Tribe's Environmental Master Plan.
- B. Develop processes which incorporate both technical environmental cataloguing standards for plant management, protection, and restoration and the customs and traditions of the Hopland people.
- C. Inventory, document, and catalog all native, threatened, endangered, environmentally sensitive, and culturally significant plants on the Hopland Reservation.
- D. Enhance, rehabilitate, and restore plant habitats that include such significant plant life.
- E. Prepare environmental reports regarding such significant plants as needed.
- F. Develop a mechanism to ensure continued community involvement and input in the Tribe's Plant Management and Protection Program.

Specifically, those Tribal members with cultural knowledge regarding the identification and use of traditional, native, or culturally significant plants should be consulted.

- G. Approach the California Native Plant Society, or similarly oriented nonprofit groups, for assistance in plant inventories and habitat restoration. Cultivate partnerships with such groups or agencies in order to better address plant management, protection and restoration.
- H. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for plant protection and management.
- I. Develop a permitting process for the collection, use, or destruction of native, threatened, endangered, environmentally sensitive, and culturally significant plants.

Inventory, Documentation, and Cataloging of Plant Species.

15.315. The EPA, in conjunction with such other agencies, nonprofit groups, and community members as they see fit, will inventory, document, and catalog all native, threatened, endangered, environmentally sensitive, and culturally significant plants on the Reservation, as necessary.

15.316. To the furthest extent possible, the EPA will incorporate community input, especially input from those members with knowledge of the cultural significance and traditional uses of such plants, in developing this list. A copy of the final catalog list will be maintained at the Tribal EPA Office. Moreover, this list will be publicly displayed at this location for at least thirty (30) days prior to the sections of this Code requiring permits and authorizing civil fines taking effect.

15.317. The EPA will make maps of the locations of such inventoried and catalogued plants that need to be protected because of their status as significant plant life as necessary. These maps will also be maintained at the Tribal EPA Office.

15.318. If necessary, the EPA will create plant habitat restoration or rehabilitation programs for such native, threatened, endangered, environmentally sensitive, and culturally significant plants. These programs will be implemented in conjunction with community members who have cultural and traditional knowledge regarding these plants whenever possible.

15.319. If necessary, the EPA may establish "moratoriums" on the collection, use, or destruction of specific plants, in order to carry out its duties in accordance with this Code.

15.320. The EPA will coordinate the establishment of a community garden for the display of native or culturally significant plants. In conjunction with such a community garden, the EPA will, with the Tribal Education Department's assistance, create an educational program for youth, and interested persons, for the identification, protection, and traditional uses of native and culturally significant plants. These programs will be implemented in conjunction with

community members who have cultural and traditional knowledge regarding the identification, protection, and traditional uses for native and culturally significant plants.

Collection, Use, or Destruction of Plants.

15.321. Any collection, use, or destruction of native, threatened, endangered, environmentally sensitive, and culturally significant plants, including parts of such plants, must be done in accordance with the regulations established by the Hopland EPA's Plant Management and Protection Program.

15.322. The EPA may authorize, by permit, the collection, use, or destruction of such plants for approved uses at established levels, including parts of such plants.

15.323. The collection, use, or destruction of significant plants within the Hopland Reservation without a permit issued by the Hopland EPA is prohibited, unless a person falls within the "recognized gatherer" exemption, in accordance with section 15.325.

15.324. Any person who collects, uses, or destroys listed significant plants without an EPA permit is subject to civil fines and damages.

15.325. A recognized gatherer is exempt from the permitting requirements for culturally significant plants. At no time shall a recognized gatherer be subject to civil fines and damages for the collection, use, or destruction of culturally significant plants for his or her personal use. However, the EPA reserves the right to verify that a person is a recognized gatherer, as defined in this Code in section 15.304.

15.326. The EPA has a duty to investigate the unauthorized collection, use, or destruction of native, threatened, endangered, environmentally sensitive, and culturally significant plants under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating groups or agencies, perform a thorough investigation of any alleged violations.

Administrative Remedies.

15.327. If appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized collection, use, or destruction of significant plants through its administrative process, as outlined below. The EPA reserves the right to bypass the administrative process and immediately file a civil action.

15.328. Verbal Warning: If appropriate, the EPA will first provide a verbal warning to the alleged offender that he or she has violated this Code. The verbal warning will explain in plain terms:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.

- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to avoid the imposition of further penalties and fines.
- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss the reasons that the conduct violated the Code.

15.329. A written record will be made documenting the verbal warning, including the date, time, and section of the Code that was violated. If it is not feasible to contact the alleged offender in person or by telephone, or if the conduct is deemed sufficiently serious to warrant the bypassing of a verbal warning, the EPA may, in its sole discretion, immediately issue a written citation.

15.330. Written Citation: If appropriate, the EPA will issue a written citation to the alleged offender that he or she has violated this Code. The citation will explain in plain terms which conduct has violated the Code. The citation should include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred-
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to avoid the imposition of further penalties and fines.
- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss in more detail the reasons that the conduct violated the Code.
- I. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must be received by the EPA.

15.331. The EPA may issue up to three (3) citations for alleged violations of this Code within one (1) calendar year period.

- A. First Offense: The EPA may, in its sole discretion, impose a fine up to \$100.00 dollars.

- B. Second Offense: The EPA may, in its sole discretion, impose a fine up to \$200.00 dollars.
- C. Third Offense: The EPA may, in its sole discretion, impose a fine up to \$500.00 dollars.

A record of all citations will be maintained. If a citation has already been issued to the offender within the calendar year, subsequent warnings may increase in seriousness; for example, subsequent warnings may impose fines for non-compliance, or may require that the offender take specific remedial steps, as determined by the EPA, to avoid further action being taken against the person. The EPA may, in its sole discretion, proceed to file a civil action or injunction against the offender, or take any other action as it deems necessary, at any time.

15.332. Administrative Appeal: If, after receiving a written warning, the alleged offender believes that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the written warning. The appeal must clearly state why the person believes that he or she has not violated the Code, and may include any supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

- A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,
- B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender and placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.333. Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, in addition to, at the court's discretion, a civil penalty in an amount up to \$100.00 for each day of each violation.

15.334. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.335. Any person who is not a member of the Hopland Tribe who is found by a court to

have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

15.336. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.337. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court".

15.338. Any person over whom the Tribe retains the inherent sovereign power to exercise civil jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court".

15.339. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil jurisdiction, Notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court", as an alternative to the Tribal Court, within thirty (30) days of receipt of Notice of the pending action.

15.340. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrated that it was not in the best interests of the Tribe, in accordance with section 15.338. The Tribal Court will then provide Notice to all relevant parties that the request to transfer to the "Peace Keeping Court", as established by the Tribal Council, has, or has not, been approved.

15.341. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to

participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.342. The Tribal Court will retain continuing jurisdiction over any matter transferred to the "Peace Keeping Court".

Arbitration and Mediation.

15.343. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.344. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.345. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.346. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

Effective Date, Amendment.

15.347. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

TITLE 15
SECTION 4

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE SOLID WASTE MANAGEMENT CODE

("PROHIBITING ABANDONED VEHICLES
WITHIN THE HOPLAND RESERVATION")

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Effective Date, Amendment

Short Title.

15.401. This Code shall be part of the Hopland Tribe's Solid Waste Management Code, and specifically, shall be known as the "Abandoned and Disabled Vehicles Code".

Purpose.

15.402. Abandoned and disabled vehicles are a hazard to public health. The abandonment and disablement of vehicles shows disrespect for the natural resources of the Reservation and for the Reservation community; the vehicles and their components cause irreparable damage to the land and the environment and constitute unsightly visual pollution; they also constitute a threat to the health and safety of Hopland residents. Therefore, the abandonment and disablement of vehicles is prohibited within the boundaries of the Hopland Reservation. Proper disposal of vehicles and their parts can be accomplished through waste management facilities, licensed haulers, and removal from the Reservation.

Definitions.

15.403. An "abandoned vehicle" is defined as a vehicle that is on private or Tribal land within the Reservation, and which is parked for an extended period of time, is immobilized, lacks parts or equipment necessary to operate safely on Reservation roads, is unregistered, has been parked so as to block roadways, driveways or other private roadways, or is otherwise left unattended. The term "abandoned vehicle" includes parts of such vehicles.

15.404. A "disabled vehicle" is defined as a vehicle that is dismantled, in whole or in part, or which is unable to be safely operated on a public street as the result of a mechanical defect, malfunction or the absence of properly functioning equipment. A mechanical defect or malfunction includes, but is not limited to, a missing or defective engine, transmission, tire, wheel, door, windshield, or other necessary component of a vehicle for its operation.

15.405. "Keeping" a vehicle includes keeping, possessing, placing, parking, or allowing a disabled or abandoned vehicle to remain on any real property within the exterior boundaries of the Hopland Reservation.

15.406. An "extended period of time" is defined as seventy-two (72) hours or longer.

Declarations and Findings.

15.407. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to manage and regulate the disposal of solid waste, including abandoned vehicles, in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.408. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.409. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.410. It is necessary to adopt this Code to protect the environmentally sensitive lands within the Hopland Reservation; to prevent solid waste pollution, including pollution of the air, and contamination of the Tribe's groundwater, surface waters, drinking water supplies and other

natural resources; to prevent the deterioration of the environment, standard of living, quality of life, welfare and well-being of all persons within Hopland lands.

15.411. This Code is additionally adopted to provide and promote efficient Tribal waste management services within Hopland lands.

Designation of Authority to the Tribal Environmental Protection Agency.

15.412. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to solid waste management, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management of solid wastes, including abandoned vehicles. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here.

15.413. The EPA shall develop and manage the Tribe's prohibition against abandoning vehicles within the Reservation boundaries; shall communicate to the community information about the Tribe's comprehensive program of responding to, and removing, abandoned vehicles; and shall make reports in a manner, and containing such information, as the Tribe approves (excluding confidential or privileged Tribal information).

15.414. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of improper management of solid waste, including abandoned vehicles. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Solid Waste Management Plan in accordance with the Tribe's Environmental Master Plan.
- B. Build on the community's inherent respect for the natural environment by developing processes which incorporate both technical standards and criteria for solid waste management and the customs and traditions of the Hopland people.
- C. Maintain an inventory of all sites on the Hopland Reservation where abandoned vehicles have been disposed, secure the removal of those abandoned vehicles, and develop and implement a plan to prevent vehicles from being abandoned in the future within the Reservation.
- D. Develop a mechanism to ensure continued community involvement and input in the Tribe's plan to prevent the risks arising from abandoned vehicles.
- E. Prepare technical reports as needed.
- F. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for solid waste.
- G. Ensure that hazardous waste arising from abandoned vehicles is handled with respect for the environment and for the health, safety and welfare of

the people of the Reservation.

15.415. The EPA has a duty to investigate under this Code. Upon receiving, a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating agencies, perform a thorough investigation of any violations alleged against any person or entity.

Abandoned and Disabled Vehicles.

15.416. It shall be unlawful for any person or entity to abandon a vehicle or any vehicle parts within the boundaries of the Hopland Reservation outside of any authorized landfill, or to keep an abandoned or disabled vehicle on any real property within the exterior boundaries of the Hopland Reservation for an extended period of time.

15.417. Any person who engages in the act of abandoning a vehicle or vehicle parts, or keeping an abandoned or disabled vehicle for an extended period of time, on any real property within the Hopland Reservation is subject to a civil fine and penalties, as set forth in this Code.

15.418. Any law enforcement officer, or any employee of the Tribal EPA within the Reservation boundaries, who has reasonable cause to believe that a vehicle has been abandoned, or that an abandoned or disabled vehicle is being kept on Reservation lands for an extended period of time, may remove the vehicle from private or Tribal property after providing Notice in accordance with section 15.419 of this Code.

15.419. Notice: If a vehicle or its parts have remained on land within the boundaries of the Hopland Reservation for an extended period of time so that it reasonably appears to the Tribal Police Department or the Tribal EPA that the vehicle is abandoned or disabled, the following steps will be taken:

15.419.1. First Notice: The Tribal EPA, or Tribal Police Department, will provide written Notice to either: the registered owner of the vehicle, the known owner of the vehicle, the last known or registered owner of the vehicle, the owner of the property on which the vehicle is located, or the lessee or tenant of the property on which the vehicle is located, as appropriate. If it is not feasible to contact the owner or the tenant, the EPA or Tribal Police Department will place the written notice on the vehicle itself. The Notice will state that the vehicle is being, kept in violation of this Code, and will include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to

avoid the imposition of further penalties and fines. Abandoned vehicles will have a deadline for removal of no more than seven (7) days, and disabled vehicles will have a deadline for removal of no more than fifteen (15) days. Removal includes clean-up of the site where the vehicle was being kept, including, but not limited to, any deposit of oil, gasoline, other fluids, or any other substances, components, or parts that were associated with, or discharged from, the abandoned or disabled vehicle.

- G. The penalties that may be imposed if the offender continues to violate the Code by failing to remove the abandoned or disabled vehicle, including the vehicle's removal and impoundment by the Tribe.
- H. The contact information for the Tribal Police Department and the EPA.
- L. That a waiver may be requested from the provisions of this Code for any reasonable period of time for any historic or classic vehicle, any vehicle in the process of restoration or repair, any vehicle that is the subject of a probate proceeding or other judicial proceeding, or any vehicle that by reason of special circumstances is deemed to warrant such a waiver for a specified period of time.

15.419.2 Waiver: A waiver request must be made in writing to the Department that issues the Notice (either the Tribal Police Department or the Tribal EPA) within one (1) week of the date of notice, and must clearly describe the reasons that a waiver should be granted and how much time is needed to achieve the vehicle's compliance with this Code. If appropriate, supporting documentation should be included, such as copies of receipts for the purchase of parts, a plan for restoration or repair, or an official legal document demonstrating that the vehicle is the subject of a legal proceeding. A waiver will be granted at the sole discretion of the Chief of Police or the EPA Director, or his or her designee. Written notice will be provided regarding whether the waiver request was approved or denied within two (2) weeks of the date of such a waiver request. During the time that the waiver is being processed, the vehicle(s) in question will not be subject to impoundment or removal under section 15.420 of this Code.

15.419.3. Second Notice: If no action is taken by the deadlines provided in the first notice, the EPA or Tribal Police Department will issue a second written notice. The second Notice will contain all the information listed in section 15.419.1, and may give the owner no less than twenty-four (24) hours and no more than seven (7) days to comply with this Code by either removing the vehicle or requesting a waiver. Additionally, the notice will state that the owner is delinquent because he or she has failed to comply with the first notice, and that the vehicle must be removed immediately. The notice will clearly state that it is the second Notice, and may impose further fines and penalties for non-compliance if appropriate.

15.419.4. Third (Final) Notice: If the vehicle is not removed, and no waiver request is filed, by the deadlines provided in the second notice, a third and final notice will be provided. The third notice will provide the owner with no less than twenty-four (24) hours and no more than seventy-two (72) hours to comply with the Final Notice and this

Code by removing the vehicle or requesting a waiver, and will provide the information originally provided in accordance with section 15.419.1. The final notice will state that the owner is delinquent because he or she has failed to comply with the first two notices, that the vehicle must be removed immediately, and that if no action is taken within the time allotted, the vehicle will be subject to removal and impoundment in accordance with section 15.420.

15.419.5. Appeal: If the waiver request is denied, the alleged offender may appeal the decision to the Tribal Council, or such Tribal Court or Review Board as is established by the Tribal Council. Such an appeal must be made in writing within one (1) week of the date of notice that the waiver request was denied. The vehicle(s) will not be subject to impoundment or removal during the appeal process.

15.420. Impounded Vehicles: If the vehicle is not removed and a waiver request is not received by the deadline provided in the Final Notice, the vehicle may be removed and stored in a secure facility until proceedings under this Code are concluded. All abandoned vehicles or other property seized may be subject to towing and storage costs until the matter is finally resolved in accordance with this Code. Owners of such vehicles may be subject to disposal costs under this Code.

15.420.1. Within five days of removal, a Notice of Removal shall be sent by certified mail, return receipt requested, to the registered owner(s) or last known owner(s) of the vehicle or the owner of the property where the vehicle was being kept. The Notice shall inform the owner(s) of the time and place of a hearing to determine whether the vehicle was abandoned or disabled in violation of this Code, whether any damages resulted from such abandonment or disablement, and of the possible forfeiture of the vehicle. The Notice shall also inform the owner(s) that he or she may pursue traditional dispute resolution, rather than a Tribal Court remedy, in such a restorative "Peace Keeping Court" as may be established by the Hopland Tribal Council in accordance with this Code. A civil complaint and copy of the Notice shall be filed against the registered or last known owner(s) in the Hopland Tribal Court.

15.420.2. Within 30 days after receipt of the Notice and Complaint, the owner(s) of the vehicle or property may file in the Hopland Tribal Court a verified Answer to the Complaint and Notice. The owner(s) may elect to proceed in the traditional dispute resolution forum, as opposed to the Hopland Tribal Court, by an affirmative request to proceed in the "Peace Keeping Court" in accordance with the procedures outlined in this Code. Unless there are documented extenuating circumstances that make the traditional dispute resolution forum inappropriate, such a request to proceed in the "Peace Keeping Court" shall be granted.

15.420.3. Upon receipt of a verified Answer, the Tribal Court shall set the matter for hearing in accordance with the rules of procedure of that court. If the Tribal Court has approved a transfer to the "Peace Keeping Court," the Tribal Court will forward all associated documentation to the "Peace Keeping Court." Once the "Peace Keeping Court"

receives the transferred file from the Tribal Court, it will provide notice to the owner(s), in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the owner(s) elect to participate in the Hopland Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.420.4. Should a verified Answer not be filed within 30 days of mailing of the Notice of Removal, the Court shall set a time and place to hear evidence upon the claim of illegal abandonment or disablement of the vehicle and order appropriate relief. Such relief may include an order that: a) forfeits the vehicle to the Hopland Tribe; b) orders the vehicle sold and the resulting funds paid to the Tribe as reimbursement for damages caused by abandonment of the vehicle; c) releases the vehicle to the registered or last known owner under appropriate circumstances; or d) disposes of the vehicle.

Civil Damages.

15.421. Any person who violates any of the provisions of this Code is subject to an assessment of civil damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including a reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs incurred to date, and in the future, for such violations (including, but not limited to, the costs incurred in the removal, storage, and disposal of the vehicle), in addition to, in the discretion of the court, a civil penalty in an amount up to \$100.00 for each day of each violation.

15.422. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.423. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

15.424. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.425. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court."

15.426. Any person over whom the Tribe retains the inherent sovereign power to exercise civil or criminal jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court."

15.427. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil or criminal jurisdiction, Notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court," as an alternative to the Tribal Court, within thirty (30) days of receipt of Notice of the pending action.

15.428. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrated that it was not in the best interests of the Tribe, in accordance with section 15.426. The Tribal Court will then provide Notice to all relevant parties that the request to transfer to the "Peace Keeping Court," as established by the Tribal Council, has, or has not, been approved.

15.429. If the Tribal Court approves such a request to transfer to the "Peace Keeping Court," the Tribal Court will forward all associated documentation to the "Peace Keeping Court." Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.430. The Tribal Court will retain continuing jurisdiction over any action transferred to the "Peace Keeping Court."

Arbitration and Mediation.

15.431. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.432. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of

competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.433. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.434. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

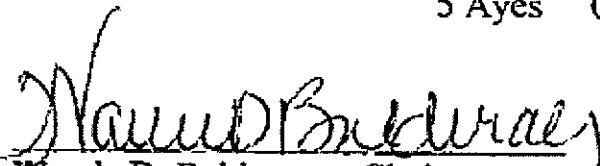
Effective Date, Amendment.

15.435. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date

TITLE 15
SECTION 5

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE SOLID WASTE MANAGEMENT CODE

("PROHIBITING ILLEGAL DUMPING AND OPEN BURNING
WITHIN THE HOPLAND RESERVATION")

Section Index:

Short Title
Purpose
Definitions
Declarations and Findings
Designation of Authority
Open Dumping
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Administrative Remedies
Civil Damages
Traditional Dispute Resolution ("Peace Keeping Court")
Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.501. This Code shall be part of the Hopland Tribe's Solid Waste Management Code, and specifically, shall be known as the "Illegal Dumping and Open Burning Code".

Purpose.

15.502. The open dumping and open burning of solid wastes shows disrespect for the natural resources of the Reservation, and for the Reservation community; it causes irreparable damage to the land and the environment; it is a threat to the health and safety of Hopland residents. Therefore, open dumping and open burning is prohibited within the boundaries of the Hopland Reservation. Proper disposal of these materials can be accomplished through waste management facilities, licensed haulers, and removal from the Reservation.

Definitions.

15.503. "Solid waste" is defined as all solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction wastes, abandoned vehicles and parts of such vehicles, discarded home appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded wastes.

15.504. "Hazardous household waste" is defined as any hazardous waste generated from normal household activities that is harmful to human health, living organisms, or the environment, and includes paint, paint thinners, turpentine, stains, solvents, aerosol cans, plastics, cleaning products, pesticides, insecticides, fungicides, herbicides, adhesives, glues, and flammable products.

Declarations and Findings.

15.505. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to manage and regulate the disposal of solid waste in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.506. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.507. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.508. It is necessary to adopt this Code to protect the environmentally sensitive lands within the Hopland Reservation; to prevent solid waste pollution, including pollution of the air, and contamination of the Tribe's groundwater, surface waters, drinking water supplies and other natural resources; to prevent the deterioration of the environment, standard of living, quality of life, welfare and well-being of all persons within Hopland lands.

15.509. This Code is additionally adopted to provide and promote efficient Tribal waste management services within Hopland lands.

Designation of Authority to the Tribal Environmental Protection Agency.

15.510. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to solid waste management, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management of solid wastes. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here.

15.511. The EPA shall develop and manage the Tribe's comprehensive waste management policy; shall communicate to the community information about the Tribe's comprehensive waste management policy; and shall make reports in a manner and containing such information as the Tribe approves, excluding confidential or privileged Tribal information.

15.512. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of improper management of solid waste. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Solid Waste Management Plan in accordance with the Tribe's Environmental Master Plan.
- B. Build on the community's inherent respect for the natural environment by developing processes which incorporate both technical standards and criteria for solid waste management and the customs and traditions of the Hopland people.
- C. Maintain an inventory of all sites on the Hopland Reservation where solid wastes have been disposed and develop and implement a plan to close those sites permanently.
- D. Develop a mechanism to ensure continued community involvement and input in the Tribe's solid waste management plan.
- E. Prepare technical reports as needed.
- F. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for solid waste.
- G. Develop a process for the issuance of permits for the collection and transportation of solid waste, and for the burning of approved solid waste materials.
- H. Ensure that hazardous waste is handled with respect for the environment and for the health, safety and welfare of the people of the Reservation.

15.513. The EPA has a duty to investigate under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating agencies, perform a thorough investigation of any violations alleged against any person or entity.

Open Dumping.

15.514. It shall be unlawful for any person or entity to dump, scatter, or place, or cause to be dumped, scattered or placed any solid waste material, hazardous or not, within the boundaries of the Hopland Reservation outside of any authorized landfill. Any site where such solid waste may have been disposed previously is deemed to be permanently closed unless it has been determined to be, and public notice is issued declaring its status as, an authorized landfill under applicable Tribal and federal law.

15.515. Any person who engages in the act of illegal dumping is subject to a civil fine and penalties, as set forth in this Code.

15.516. All vehicles or other property seized and held as evidence shall be subject to towing and storage costs until the matter is finally resolved in accordance with this Code.

15.517. In addition to any civil fines and penalties as described here, any vehicle or other personal property used in the illegal dumping of solid waste materials on the Hopland Reservation may be impounded by law enforcement officials and held in a secure facility.

15.517.1. Within five days of impoundment, a Notice of Impoundment and Possible Forfeiture shall be sent by certified mail, return receipt requested, to the registered owner(s) of the vehicle or other property. The Notice shall inform the owner(s) of the time and place of a hearing to determine whether the vehicle was operated, or property used, in violation of this Code, whether any damages resulted from such operation, and of the possible forfeiture of the vehicle and/or property. The Notice shall also inform the owner(s) that he or she may pursue traditional dispute resolution, rather than a Tribal Court remedy, in such a restorative "Peace Keeping Court" as may be established by the Hopland Tribal Council in accordance with this Code. A civil complaint and copy of the Notice shall be filed against the registered owner(s) in the Hopland Tribal Court.

15.517.2. Within 30 days after receipt of the Notice, the owner(s) of the vehicle or property may file in the Hopland Tribal Court a verified Answer to the Complaint and Notice. The owner(s) may elect to proceed in the traditional dispute resolution forum, as opposed to the Hopland Tribal Court, by an affirmative request to proceed in the "Peace Keeping Court" in accordance with the procedures outlined in the Code. Unless there are documented extenuating circumstances that make the traditional dispute resolution forum inappropriate, such a request to proceed in the "Peace Keeping Court" shall be granted.

15.517.3. Upon receipt of a verified Answer, the Tribal Court shall set the matter for hearing in accordance with the rules of procedure of that court. If the Tribal Court has approved a transfer to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the owner(s),

in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the owner(s) elect to participate in the Hopland Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.517.4. In the event that a verified Answer is not filed within 30 days of the mailing of the Notice of Impoundment, the Court shall set a time and place to hear evidence upon the claim of illegal use of the vehicle or property, and order appropriate relief. Such relief may include an order that: a) forfeits the vehicle to the Hopland Tribe; b) orders the vehicle sold and the resulting funds paid to the Tribe as reimbursement for damages caused by use of the vehicle; or, c) releases the vehicle to the registered owner upon a showing that the vehicle was not used in connection with illegal dumping.

Open Burning of Solid Wastes.

15.518. Any burning of solid wastes will be done in accordance with the Hopland Tribal Police Department's open burning permit requirements and such open burning regulations as are established by the Hopland EPA's Clean Air Program.

15.519. The Hopland Tribal Police Department may authorize, by permit, the infrequent open burning of certain solid wastes, such as agricultural wastes, silvicultural (forestry) wastes, land-cleaning debris, diseased trees, or related materials.

15.520. Open burning without a permit issued by the Hopland Tribal Police Department is prohibited, unless such open burning is performed in association with a Hopland Tribal ceremony in accordance with section 15.523.

15.521. Any person who intentionally engages in the act of open burning without a Hopland Tribal Police Department permit is subject to civil fines and penalties, as set forth in this Code, unless such open burning is exempt in accordance with the ceremonial exception in section 15.523.

15.522. The EPA and the Tribal Police Department shall maintain a list of "prohibited items" that shall not be burned at any time within the boundaries of the Hopland Reservation. The EPA and the Tribal Police Department reserve the right to add, change, or amend this list of prohibited items at any time, without notice. No permit shall be obtained to authorize the burning of these prohibited items, except that the Police Department and the EPA may designate a "community burning" site for items that cannot be disposed of or removed, if appropriate. Prohibited items include, without limitation:

- A. Household trash
- B. Medical waste
- C. Hazardous household waste
- D. Flammable products (including propane tanks, kerosene, home heating oil, diesel fuel, gas, oil, lighter fluid, lighters)
- E. Automotive products (including motor oil, fuel additives, carburetor and fuel

injection cleaners, air conditioning refrigerants, starter fluids, automotive batteries, transmission and brake fluid, antifreeze)

F. Cleaning products (including oven cleaners, drain cleaners, wood and metal cleaners and polishes, toilet cleaners, tub, tile, and shower cleaners, bleach, pool chemicals, and associated cleaning items)

G. Indoor pesticides (including ant sprays and baits, cockroach sprays and baits, flea repellants and shampoos, bug sprays, houseplant insecticides, moth repellents, mouse and rat poison and baits)

H. Workshop/painting supplies (including adhesives and glues, furniture strippers, oil or enamel based paint, stains and finishes, paint thinners and turpentine, paint strippers and removers, photographic chemicals, fixatives and other solvents)

I. Lawn and garden products (including herbicides, insecticides, fungicides, wood preservatives)

J. Infectious waste

K. Automotive parts

L. Any machine or electronic appliance (including computers, printers, copiers, fax machines, telephones, toaster ovens, microwaves) and their components and parts

M. Tires (including their components and parts)

N. Refuse (including dead animals, offal, and street sweepings)

O. Sewage and sewage sludge

P. Radioactive wastes

Q. Polychlorinated Biphenyls (PCBs)

15.523. Ceremonial Exception: The EPA shall maintain a list of items associated with Hopland Tribal ceremonies that are exempt from the permitting requirements outlined in this Code. At no time shall the open burning of items associated with a Hopland Tribal ceremony by a member of the Hopland Band of Pomo Indians, or by a Hopland Tribal member's family or household member, result in the imposition of any civil fines and penalties under this Code.

Administrative Remedies.

15.524. If appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized open dumping and open burning through its administrative process, as outlined below. The EPA reserves the right to bypass the administrative process and immediately file a civil action.

15.525. Verbal Warning: If appropriate, the EPA will first provide a verbal warning to the alleged offender that he or she has violated this Code. The verbal warning will explain in plain terms:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid

violating the Code again.

- F. The date by which the person must come into compliance with the Code to avoid the imposition of further penalties and fines.
- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss the reasons that the conduct violated the Code.

15.526. A written record will be made documenting the verbal warning, including the date, time, and section of the Code that was violated. If it is not feasible to contact the alleged offender in person or by telephone, or if the conduct is deemed sufficiently serious to warrant the bypassing of a verbal warning, the EPA may, in its sole discretion, immediately issue a written citation.

15.527. Citation: If appropriate, the EPA will issue a written citation to the alleged offender that he or she has violated this Code. The citation will explain in plain terms the conduct that has violated the Code. The citation should include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to avoid the imposition of further penalties and fines.
- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss in more detail the reasons that the conduct violated the Code.
- I. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must be received by the EPA.

15.528. The EPA may issue up to three (3) citations for alleged violations of this Code within one (1) calendar year period.

- A. First Offense: The EPA may, in its sole discretion, impose a fine up to \$100.00 dollars.
- B. Second Offense: The EPA may, in its sole discretion, impose a fine up to \$200.00 dollars.
- C. Third Offense: The EPA may, in its sole discretion, impose a fine up to \$500.00 dollars.

A record of all citations will be maintained. If a written citation has already been issued to the offender within the calendar year, subsequent citations may increase in seriousness, for example, subsequent citations may impose greater fines for non-compliance, or may require that the offender take specific remedial steps, as determined by the EPA, to avoid further action being taken against the person. The EPA may, in its sole discretion, proceed to file a civil action or injunction against the offender, or take any other action as it deems necessary, at any time.

15.529. Administrative Appeal: If, after receiving a citation, the alleged offender believes that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing, to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the written citation. The appeal must clearly state why the person believes that he or she has not violated the Code, and may include any supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

- A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,
- B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender, as well as placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.530. Any person who violates any of the provisions of this Code is subject to an assessment of civil damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including a reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs incurred to date, and in the future, for such violations (including, but not limited to, the costs incurred in cleanup, abatement, and related acts), in addition to, in the discretion of the court, a civil penalty in an amount up to \$500.00 dollars for each day of each violation.

15.531. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.532. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

15.533. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.534. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court".

15.535. Any person over whom the Tribe retains the inherent sovereign power to exercise civil jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court".

15.536. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil jurisdiction, Notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court", as an alternative to the Tribal Court, within thirty (30) days of receipt of Notice of the pending action.

15.537. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrates that it is not in the best interests of the Tribe, in accordance with section 15.525. The Tribal Court will then provide Notice to all relevant parties that the request to transfer to the "Peace Keeping Court", as established by the Tribal Council, has, or has not, been approved.

15.538. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.539. The Tribal Court will retain continuing jurisdiction over any matter transferred to the "Peace Keeping Court".

Arbitration and Mediation.

15.540. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.541. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.542. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.543. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

Effective Date, Amendment.

15.544. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date

TITLE 15
SECTION 6

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE TREE MANAGEMENT AND PROTECTION CODE

("PROHIBITING THE UNAUTHORIZED COLLECTION, USE, OR DESTRUCTION OF
TREES ON LANDS WITHIN THE HOPLAND RESERVATION")

Section Index:

Short Title
Purpose
Definitions
Declarations and Findings
Designation of Authority
Inventory, Documentation, and Cataloging of Tree Species
Collection, Use, or Destruction of Trees
Administrative Remedies
Civil Damages
Traditional Dispute Resolution ("Peace Keeping Court")
Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.601. This Code shall be known as the "Tree Management and Protection Code".

Purpose.

15.602. The unauthorized collection, use, or destruction of trees, including parts of trees, under this Code shows disrespect for the natural resources of the Reservation, and for the Reservation community; and, it causes irreparable damage to the land and the environment. Therefore, such unauthorized collection, use or destruction of trees is prohibited within the boundaries of the Hopland Reservation.

Definitions.

15.603. "Personal use" is defined as the collection, use, or destruction of trees, including parts of such trees, for personal or family use within the boundaries of the Hopland Reservation. Personal or family use shall not include any commercial purpose or any purpose resulting in financial gain.

15.604. An individual's "homesite" is defined as land within the boundaries of the Hopland Reservation that is owned by, held in trust for, or occupied by, that individual or that individual's family.

15.605 A "recognized gatherer" is defined as a member of the Hopland Band of Pomo Indians who collects or uses culturally significant trees not located on his or her homesite for personal use associated with culturally significant purposes. A recognized gatherer's family member or household member shall be included within the definition of a "recognized gatherer" regardless of whether that person is an enrolled member of the Hopland Band of Pomo Indians.

Declarations and Findings.

15.606. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to manage and regulate its trees in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.607. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.608. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe, and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.609. It is necessary to adopt this Code to protect the forests and trees within the Hopland Reservation. Specifically, this Code addresses the collection, use, and destruction of trees on the Reservation. This Code adopts a permitting scheme, including the assessment of civil fines and damages for non-compliance with the permitting process. This Code is enacted to protect the Reservation's tree population for future use and conservation, ensuring that future generations will benefit from the continued existence of such trees and forests on Hopland lands.

15.610. In addition to protecting trees and forests to ensure their survival and use for future generations, this Code is also adopted to inventory, document, and catalog all "significant" tree species on the Reservation. "Significant trees" are defined as native, threatened, endangered, environmentally sensitive, and culturally important trees. All significant tree species will be inventoried, cataloged, and mapped. The EPA may provide further protection, including, but not limited to, higher fines and penalties for the collection, use, and destruction of trees classified as significant.

Designation of Authority to the Tribal Environmental Protection Agency.

15.611. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to the protection and management of trees and forests, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management of such trees and forests. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here, and, where necessary, will work in conjunction with the Tribal Council and other Tribal Departments in carrying out this Code.

15.612. The EPA shall develop and manage the Tribe's comprehensive Tree Management and Protection Program; shall communicate to the community information about the Tribe's comprehensive Tree Management and Protection Program; and shall make reports in a manner, and containing such information, as the Tribe approves regarding the development and management of this Program.

15.613. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of the improper management and protection of trees. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Tree Management and Protection Program in accordance with the Tribe's Environmental Master Plan.
- B. Develop processes which incorporate both technical environmental standards for tree management, protection, and restoration and the customs and traditions of the Hopland people.
- C. Inventory, document, and catalog all tree species on the Hopland Reservation.
- D. Inventory, document, and catalog all native, threatened, endangered, environmentally sensitive, and culturally significant tree species on the Hopland Reservation.
- E. Prepare environmental reports regarding trees and forests as needed.
- F. Develop a mechanism to ensure continued community involvement and input in the Tribe's Tree Management and Protection Program.
- G. Cultivate partnerships with nonprofit groups, public agencies, or Tribal

organizations in order to better address tree management, protection and restoration.

- H. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further the Tribe's Environmental Master Plan for tree management and protection.
- I. Develop a permitting process for the collection, use, or destruction of trees within the Hopland Reservation.

Inventory, Documentation, and Cataloging of Tree Species.

15.614. The EPA, in conjunction with such other Tribal departments, agencies, nonprofit groups, and community members as they see fit, will inventory, document, and catalog all tree species on the Reservation.

15.615. The EPA will make an inventory of, and create a catalog with, a list of all tree species on the Reservation. This inventory will include a catalog of all native, threatened, endangered, environmentally sensitive, and culturally significant tree species on the Hopland Reservation. A copy of the final catalog list will be maintained in the Tribal EPA Office. This list will be publicly displayed for at least thirty (30) days prior to the sections of this Code requiring permits and authorizing civil fines taking effect.

15.616. The EPA will make maps of the locations of such inventoried and cataloged tree species. These maps will also be maintained in the Tribal EPA Office.

15.617. Where necessary, the EPA will create tree restoration or rehabilitation programs.

15.618. Where necessary, the EPA may establish "moratoriums" on the collection, use, or destruction of specific types of trees, in order to carry out its duties in accordance with this Code.

Collection, Use, or Destruction of Trees.

15.619. Any collection, use, or destruction of trees, in whole or in part, must be done in accordance with the regulations established by the Hopland EPA's Tree Management and Protection Program.

15.620. The EPA may authorize, by permit, the collection, use, or destruction of trees for approved uses at established levels, in accordance with its regulations.

15.621. The collection, use, or destruction of trees, in whole or in part, without a permit issued by the Hopland EPA is prohibited, unless that person falls within the exemption for personal use within an individual's homesite, in accordance with section 15.623, or is a recognized gatherer of culturally significant trees for personal use, in accordance with section 15.624.

15.622. Any person who collects, uses, or destroys trees within the Hopland Reservation

without an EPA permit, and not falling within any exception. is subject to civil fines and damages, as set forth in this Code.

15.623. Personal Use Exception: An individual who collects, uses, or destroys trees located on his or her homesite for personal use shall be exempt from the permitting requirements under this Code, in accordance with the definitions in section three (3) of this Code. At no time shall an individual collecting, using, or destroying trees located on his or her homesite for personal use be subject to civil fines and damages. However, the EPA reserves the right to verify that such an individual is in fact in compliance with this Code.

15.624. Recognized Gatherer Exception: A recognized gatherer of parts of culturally significant trees not located on an individual's homesite for his or her personal use associated with cultural purposes is exempt from the EPA's permit requirements under this section. However, recognized gatherers are prohibited from taking or destroying an entire tree. The Tribe does not recognize the cutting of trees for firewood as a personal use associated with cultural purposes; the taking of Reservation trees not on an individual's homesite for firewood is prohibited unless the EPA has issued a permit. At no time shall a recognized gatherer collecting or using parts of culturally significant trees for personal use associated with cultural purposes be subject to civil fines and damages. The EPA reserves the right to verify that such an individual is in fact in compliance with this Code.

15.625. Duty to Investigate: The EPA has a duty to investigate the unauthorized collection, use, or destruction of trees under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating groups or agencies, perform a thorough investigation of any alleged violations.

Administrative Remedies.

15.626. If appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized collection, use, or destruction of trees through its administrative process, as outlined below. The EPA reserves the right to bypass the administrative process and immediately file a civil action.

15.627. Verbal Warning : If appropriate, the EPA will first provide a verbal warning to the alleged offender that he or she has violated this Code. The verbal warning will explain in plain terms:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to

avoid the imposition of further penalties and fines.

- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss the reasons that the conduct violated the Code.

15.628: A written record will be made documenting the verbal warning, including the date, time, and section of the Code that was violated. If it is not feasible to contact the alleged offender in person or by telephone, or if the conduct is deemed sufficiently serious to warrant the bypassing of a verbal warning, the EPA may, in its sole discretion, immediately issue a written citation.

15.629. Citation: If appropriate, the EPA will issue a written citation to the alleged offender that he or she has violated this Code. The citation will explain in plain terms what conduct has violated the Code. The written notice should include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. What steps must be taken to address the violation, including how to avoid violating the Code again.
- F. The date by which the person must come into compliance with the Code to avoid the imposition of further penalties and fines.
- G. The penalties that may be imposed if the offender continues to violate the Code, including the filing of a civil action.
- H. The contact information for the Tribal EPA, and that a meeting may be scheduled with the EPA to discuss in more detail the reasons that the conduct violated the Code.
- I. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must be received by the EPA.

15.630. The EPA may issue up to three (3) citations for alleged violations of this Code within one (1) calendar year period. A record of all citations will be maintained. If a citation has already been provided to the offender within the calendar year, subsequent citations may increase in seriousness; for example, subsequent citations may impose fines for non-compliance, or may require that the offender take specific remedial steps, as determined by the EPA, to avoid further action being taken against the person. The EPA may, in its sole discretion, proceed to file a civil action or injunction against the offender, or take any other action as it deems necessary, at any time.

15.631. Administrative Appeal: If, after receiving a citation, the alleged offender believes

that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the citation. The appeal must clearly state why the person believes that he or she has not violated the Code, and may include any supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

- A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,
- B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender, as well as placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.632. Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, in addition to, at the court's discretion, a civil penalty in an amount up to \$100.00 for each day of each violation.

15.633. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.634. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

15.635. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.636. The Hopland Tribal Council may, at its discretion, and in accordance with its

sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court".

15.637. Any person over whom the Tribe retains the inherent sovereign power to exercise civil or criminal jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court".

15.638. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil or criminal jurisdiction, Notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court", as an alternative to the Tribal Court, within thirty (30) days of receipt of Notice of the pending action.

15.639. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrated that it was not in the best interests of the Tribe, in accordance with section 15.620. The Tribal Court will then provide Notice to all relevant parties that the request to transfer to the "Peace Keeping Court", as established by the Tribal Council, has, or has not, been approved.

15.640. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.641. The Tribal Court will retain continuing jurisdiction over any matter transferred to the "Peace Keeping Court".

Arbitration and Mediation.

15.642. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation

proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.643. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.644. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.645. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

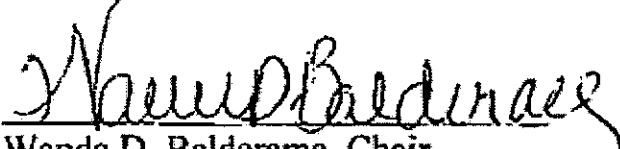
Effective Date, Amendment.

15.646. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date

TITLE 15
SECTION 7

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE WATER QUALITY MANAGEMENT AND PROTECTION CODE

("PROHIBITING THE UNAUTHORIZED USE, ALTERATION, IMPAIRMENT, OR
DESTRUCTION OF WATER RESOURCES")

Section Index:

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Designation of Authority
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Alteration, Impairment, or Destruction of Water Resources
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Traditional Dispute Resolution ("Peace Keeping Court")
Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.701. This Code shall be known as the "Water Quality Management and Protection Code".

Purpose.

15.702. The purpose of this Code is to exercise comprehensive Tribal regulatory authority over all water resources within the exterior boundaries of the Hopland Reservation, and to protect Tribal cultural, ceremonial, religious, fishery, seasonal, residential, and all other beneficial uses of water resources, including public health and safety and water quality, by ensuring adequate drinking water, protecting the beneficial uses of water resources, and restricting non-point and point source discharges of pollutants within the exterior boundaries of the Hopland Reservation. The unauthorized alteration, impairment or destruction of water resources within the Hopland Reservation shows disrespect for the natural resources of the Reservation, and for the Reservation community; it causes irreparable damage to the land and the environment; it is a threat to the health and safety of Hopland residents. Therefore, the

unauthorized alteration, impairment, or destruction of such water resources is prohibited within the boundaries of the Hopland Reservation.

Definitions.

15.703. "Nonpoint Source" is defined as any pollution sources which are diffuse and do not have a single point of origin or are not introduced into a receiving stream from a specific outlet.

15.704. "Point Source" is defined as any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, culvert, well, discrete fissure, containers, rolling stock, or vessel.

15.705. "Water Pollutant" or "Pollutant" is defined as any substance that may alter the quality of the water resources of the Reservation. This includes a pollutant that is released into a seasonal waterway, regardless of whether such waterway is dry.

15.706. "Water Resources" are defined as any water, surface or underground, contained within, flowing through, or bordering the Hopland Reservation, including water bodies, tributary streams, streambeds, riparian areas adjacent to water bodies and streams, ponds, and seasonal waterways, regardless of whether such waterways are dry.

Declarations and Findings.

15.707. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to conserve, manage, protect and regulate its water resources in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.708. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.709. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe, and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.710. It is necessary to adopt this Code to protect water resources within the Hopland Reservation. Specifically, this Code addresses the conservation, management, protection and regulation of water resources on and near the Tribe's lands.

15.711. This Code adopts a permitting scheme, including the assessment of civil fines and damages for non-compliance with the permitting process. This Code is enacted to protect these significant water resources for future use and conservation, ensuring that future generations will benefit from the continued existence of such water resources.

15.712. In addition to conserving, managing, protecting and regulating the Reservation's water resources to ensure their survival and use for future generations, this Code is also adopted to sample, analyze, and inventory all significant water resources on the Reservation to determine whether such water resources are impaired and in need of further protection or restoration. The EPA will monitor such significant water resources as necessary to ensure that water quality standards have been, and continue to be, maintained.

Designation of Authority to the Tribal Environmental Protection Agency.

15.713. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to the conservation, protection and management of water resources, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management and Protection of Hopland water resources. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here, and shall work in conjunction with the Tribal Council and other Tribal Departments in carrying out this Code.

15.714. The EPA shall develop and manage the Tribe's comprehensive Water Quality Management and Protection Program; shall communicate to the community information about the Tribe's Program; and shall make reports in a manner, and containing such information, as the Tribe approves regarding the development and management of this Program.

15.715. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of the improper management and protection of the Reservation's water resources. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Water Quality Management and Protection Program in accordance with the Tribe's Environmental Master Plan.
- B. Develop processes which incorporate both technical environmental cataloguing standards for water resource conservation, management, protection and restoration and the customs and traditions of the Hopland people.
- C. Perform comprehensive assessments of water resources on the Hopland Reservation, including groundwater and surface waters, to determine water quality levels.
- D. Document the water quality of the Reservation's water resources.

- E. Inventory and map water resources, and, in particular, any environmentally sensitive or impaired water resources on the Hopland Reservation.
- F. Provide further protection, and implement water restoration programs, for any environmentally sensitive or impaired water resources on the Reservation.
- G. Draft point source and non-point source management plans.
- H. Establish working relationships with upstream and downstream neighbors to encourage joint water stewardship efforts.
- I. Prepare environmental reports regarding water resources as needed.
- J. Develop a mechanism to ensure continued community involvement and input in the Tribe's Water Quality Management and Protection Program. Specifically, those Tribal members with cultural knowledge regarding the identification and use of traditional or culturally significant water resources, such as traditional fishing areas, will be consulted.
- K. Approach the appropriate water conservation nonprofit groups or agencies for assistance in water assessment, inventory, monitoring, and restoration. Cultivate partnerships with such groups or agencies in order to better address water conservation, management, protection and restoration.
- L. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for water quality management and protection.
- M. Develop a permitting process for the alteration, impairment or destruction of the Reservation's water resources.

Assessment of Water Resources.

15.716. The EPA, in conjunction with such other agencies, nonprofit groups, and community members as they see fit, will assess, inventory, and monitor the Reservation's water resources through water sampling and analysis, soil sampling and analysis, and such other sampling, measurements, and analysis as is necessary.

15.717. The EPA will inventory all water resources on the Reservation. A copy of the final list will be maintained at the Tribal EPA Office.

15.718. The EPA will map the locations of such inventoried water resources that need to be protected or restored. These maps will also be maintained at the Tribal EPA Office.

15.719. If necessary, the EPA will create water resource restoration or rehabilitation programs for any environmentally sensitive, threatened, or impaired water resources.

15.720. The EPA will coordinate the establishment of a community outreach program to promote the environmental health of the Reservation's water resources and to establish anti-water pollution practices on the Reservation.

Alteration, Impairment, or Destruction of Water Resources.

15.721. Any alteration, impairment, or destruction of water resources within the exterior boundaries of the Hopland Reservation must be done in accordance with the regulations established by the Hopland EPA's Water Quality Management and Protection Program.

15.722. The EPA may authorize, by permit, the alteration, impairment, or destruction of water resources for approved uses at established levels, including the discharge of pollutants from both non-point and point sources.

15.723. No person shall discharge any pollutant into a Reservation water resource without an EPA permit. The discharge of any pollutant, and the alteration, impairment, or destruction of any water resource within the Hopland Reservation without an EPA permit, is prohibited, unless a person has received a variance in accordance with section 15.726.

15.724. Any person who alters, impairs, or destroys water resources without an EPA permit or a variance, including the discharge of both non-point and point source pollutants, is subject to civil fines and damages in accordance with this Code.

15.725. Notice: If a person discharges any pollutant into any Reservation water resource without a permit or variance, regardless of whether the pollutant's discharge was intentional or accidental, that person shall immediately notify the EPA of such a discharge and shall fully disclose the information regarding the discharge, including the type of the pollutant, the amount, the location, and any other relevant information.

15.726. Variances: The EPA may exempt a person from the permit requirements associated with the alteration or impairment of a water resource by granting a variance. In order to obtain a variance, the person must request a variance in writing from the EPA. This request will be approved or denied by the EPA in its sole discretion. The applicant must demonstrate that:

- A. The water resource will not be permanently altered or impaired;
- B. Public health and safety will not be threatened;
- C. No significant adverse environmental effects will occur;
- D. A mitigation plan will be implemented to offset the alteration or impairment of the water resource.

A variance may only be granted for a specific period of time, not to exceed one (1) calendar year. At no time shall a person who has obtained a variance be subject to civil fines and damages for the alteration or impairment of water resources on the Hopland Reservation in accordance with the terms of the variance. However, the EPA reserves the right to verify that a person is acting in accordance with the terms of the variance through inspection and monitoring.

15.727. Duty to Investigate: The EPA has a duty to investigate the unauthorized alteration, impairment, or destruction of water resources under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law

enforcement or other cooperating groups or agencies, perform a thorough investigation of any alleged violations.

15.728. Inspections and Entry: The EPA, and any authorized Tribal representative of the EPA, shall be allowed to enter and inspect any water resource which has obtained an EPA permit. Sampling and monitoring will be done at reasonable times for the purposes of assuring permit compliance, or as is otherwise determined necessary by the EPA. The EPA reserves the right to sample and monitor all water resources on the Reservation, regardless of whether a permit has been requested, a permit has been formally granted, is pending, or has been denied.

Administrative Remedies.

15.729. If appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized alteration, impairment, or destruction of water resources, including the discharge of pollutants, through its administrative process, as outlined below. The EPA reserves the right to bypass the administrative process and immediately file a civil action.

15.730. Written Warning ("Cease and Desist Order"): If appropriate, and at its sole discretion, the EPA will issue a written warning to the alleged offender that he or she has violated this Code. The written warning will explain in plain terms what conduct has violated the Code, and will require that the individual "cease and desist" from any conduct that results in the alteration, impairment, or destruction of Reservation water resources. The written notice should include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. That the individual must "cease and desist" from engaging in any conduct that may result in the alteration, impairment, or destruction of water resources on the Hopland Reservation.
- F. If applicable, that an individual is in violation of his or her EPA permit.
- G. What steps must be taken to address the violation.
- H. The date by which the person must come into compliance with the Code or the permit to avoid the imposition of further penalties and fines and, if applicable, the revocation of the permit.
- I. The penalties that may be imposed if the offender continues to violate the Code or the permit, including the filing of a civil action and the revocation of the permit.
- J. The contact information for the Tribal EPA, and that an "informal conference" may be requested to discuss the alleged violation.
- K. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must be received by the EPA.

15.731. A record of all warnings will be maintained. If a warning has already been issued to the offender within the calendar year, subsequent warnings may increase in seriousness; for example, subsequent citations may impose fines for non-compliance, or may require that the offender take specific remedial steps, as determined by the EPA, to avoid further action being taken against the person. The EPA may, in its sole discretion, proceed at any time to revoke a permit, file a civil action or injunction against the offender, or take any other action, as it deems necessary.

15.732. Administrative Appeal: If, after receiving a written warning, the alleged offender believes that he or she has not violated the terms of the Code or his or her permit, he or she may appeal the EPA's finding in writing to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the written warning. The appeal must clearly state why the person believes that he or she has not violated the Code or his or her permit, and should include supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

- A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,
- B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender and placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.733. Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, including the costs of clean-up, abatement, water resource restoration, and the administrative costs associated with the enforcement of this Code, in addition to, at the court's discretion, a civil penalty in an amount up to \$500.00 for each day of each violation.

15.734. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.735. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation

suspended or terminated.

15.736. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.737. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court".

15.738. Any person over whom the Tribe retains the inherent sovereign power to exercise civil jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court".

15.739. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil jurisdiction, Notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court", as an alternative to the Tribal Court, within thirty (30) days of receipt of Notice of the pending action.

15.740. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrates that it is not in the best interests of the Tribe, in accordance with section 10.2. The Tribal Court will then provide Notice to all relevant parties that the request to transfer to the "Peace Keeping Court", as established by the Tribal Council, has, or has not, been approved.

15.741. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.742. The Tribal Court will retain continuing jurisdiction over any matter transferred to the "Peace Keeping Court".

Arbitration and Mediation.

15.743. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion-

15.744. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.745. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.746. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

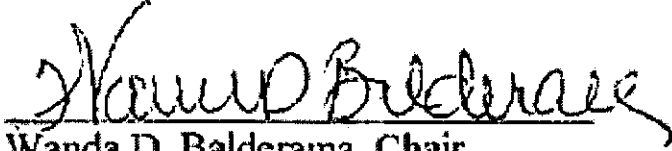
Effective Date, Amendment.

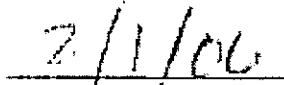
15.747. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair


Date

ATTESTED:


Roman Carrillo, Secretary


Date

TITLE 15

SECTION 8

ENVIRONMENTAL PROTECTION

HOPLAND TRIBE WATER QUALITY MANAGEMENT AND PROTECTION CODE

("IMPLEMENTING THE PERMITTING, MONITORING, AND ENFORCEMENT OF
WASTEWATER TREATMENT AND DISPOSAL STANDARDS
WITHIN THE HOPLAND RESERVATION")

Section Index:

Short Title
Purpose
Definitions
Declarations and Findings
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Inspection, Monitoring and Maintenance of Sewage Systems
Permitting, Management, and Monitoring of Sewage and Sewage Systems
Administrative Remedies
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Traditional Dispute Resolution ("Peace Keeping Court")
Arbitration and Mediation
Severability
Sovereign Immunity
Effective Date, Amendment

Short Title.

15.801. This Code shall be part of the Hopland Tribe's Water Quality Management and Protection Code, and specifically, shall be known as the "Wastewater Storage, Treatment, and Disposal Code".

Purpose.

15.802. The inadequate storage, treatment, and disposal of wastewater can contaminate and degrade water resources on which many people depend for domestic, agricultural, recreational, and other beneficial uses within the exterior boundaries of the Hopland Reservation. The improper disposal or discharge of wastewater, including the improper use and maintenance of wastewater treatment and disposal systems, such as septic tanks, shows disrespect for the natural resources of the Reservation, and for the Reservation community; it causes irreparable damage to the land and the environment; it is a threat to the health and safety of Hopland residents.

Wastewater Storage, Treatment, and Disposal Code

Therefore, in order to protect the Reservation's water resources, this Code implements a comprehensive regulatory and permitting scheme for wastewater storage, treatment and disposal within the boundaries of the Hopland Reservation.

Definitions.

15.803. "Alternative System" is defined as any wastewater system consisting of the storage, treatment, or disposal of sewage or wastewater in a structure or facility other than a septic tank or wastewater treatment facility. An alternative system includes, but is not limited to, portable restroom facilities, subsurface absorption systems, lagoons, aeration ponds, and mound systems.

15.804. "Septic Tank" is defined as any watertight pretreatment receptacle which receives the discharge of wastewater and is designed and constructed so as to permit the separation of floating solids from the liquids, detention, and digestion of the organic matter prior to discharge of the liquid portion.

15.805. "Sewage" and "Wastewater" are defined as any human or domestic waste from residences, buildings, motor homes, outhouses, or other facilities, including any human or domestic waste combined with water or other substances, regardless of whether such waste is treated or untreated. *See*, Section 9.340 of the Sanel Tribal Utility Code.

15.806. "Sewage Systems" and "Wastewater Systems" are defined as any system that stores, treats, or disposes of human or domestic waste from residences, buildings, motor homes, or other structures and facilities, including, but not limited to, septic tanks and wastewater treatment facilities. *See*, Section 9.339 of the Sanel Tribal Utility Code.

15.807. "Tribal Sanitary Sewer System" or "Tribal System" is defined as the sanitary sewer system that is owned and operated by the Hopland Band of Pomo Indians' Sanel Tribal Utility District ("STUD"). *See*, the Sanel Tribal Utility Code.

15.808. "Water Resources" are defined as any water, surface or underground, contained within, flowing through, or bordering the Hopland Reservation, including water bodies, tributary streams, streambeds, riparian areas adjacent to water bodies and streams, ponds, and seasonal waterways, regardless of whether, such waterways are dry.

Declarations and Findings.

15.809. The Hopland Band of Pomo Indians is recognized by the people and outside governments as a sovereign government. The Tribe has the inherent authority within the exterior boundaries of its Reservation to manage and regulate its water resources in a manner which best protects the Hopland Reservation, its natural resources, and the health, welfare and economic security of this generation of Hopland people, and the generations to follow.

15.810. This Code is enacted pursuant to the sovereign power of the Hopland Tribal Council (Council), as a recognized law-making body, to deal with Tribal lands, natural resources, and

property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members; to maintain law and order on Hopland land; and to protect the Hopland environment.

15.811. The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the original boundaries of the Hopland Reservation, as necessary to protect the political integrity, economic security, and health and welfare of the Tribe, and, accordingly, to maintain the environment and protect the natural resources of the Tribe.

15.812. It is necessary to adopt this Code to protect water resources within the Hopland Reservation from the unauthorized discharge or disposal of wastewater. Specifically, this Code is enacted to protect these significant water resources for future use and conservation, ensuring that future generations will benefit from the continued existence of such water resources.

15.813. This Code adopts a permitting scheme, including the permitting, monitoring, and enforcement of wastewater storage, treatment, and disposal standards and regulations within the boundaries of the Hopland Reservation, including the assessment of civil fines and damages for non-compliance with the permitting process and such standards and regulations adopted by the EPA.

15.814. In addition to conserving, managing, protecting and regulating the Reservation's water resources to ensure their survival and use for future generations, this Code also authorizes the Hopland EPA, and its authorized representatives, to inspect and monitor all sewage systems, alternative systems, and sewage treatment and disposal on the Reservation. The EPA will inspect and monitor such sewage systems, alternative systems, and sewage treatment and disposal as necessary to ensure that the EPA's regulations and standards have been, and continue to be, maintained.

Designation of Authority to the Tribal Environmental Protection Agency.

15.815. The Hopland Tribe is entrusted to protect the land, air, water, vegetation and animal life for the current residents of the Hopland Reservation and for the generations of Hopland people to come. To accomplish this mission as it relates to the protection and management of water resources, the Hopland Tribe hereby appoints the Hopland Tribal Environmental Protection Agency as the lead Tribal agency to ensure the proper management of sewage, septic tanks, alternative systems, and sewage treatment and disposal. The Tribal EPA (EPA) shall have the powers, duties and responsibilities provided for here, and shall work in conjunction with the Tribal Council and other Tribal Departments in carrying out this Code.

15.816. The EPA, in conjunction with the Sanel Tribal Utility District, shall develop and manage the Tribe's comprehensive Wastewater Management and Disposal Program; shall communicate to the community information about the Tribe's comprehensive Wastewater Management and Disposal Program; and shall make reports in a manner, and containing such information, as the Tribe approves regarding the development and management of this Program.

15.817. Duties of the Hopland EPA. The EPA is entrusted to protect the land, air, water, vegetation and animal life for future generations from the detrimental effects of the improper storage, treatment, and disposal of sewage, including the improper maintenance of sewage systems, alternative systems, and wastewater treatment facilities. The EPA's specific duties necessary to accomplish this task shall include the following:

- A. Develop and implement the Tribe's Wastewater Management and Disposal Program in accordance with the Tribe's Environmental Master Plan.
- B. Draft wastewater management and disposal regulations and standards.
- C. Develop processes which incorporate both technical environmental cataloguing standards for wastewater management and disposal and the customs and traditions of the Hopland people.
- D. Inspect and monitor all sewage, sewage systems, alternative systems, and sewage treatment and disposal on the Hopland Reservation, as necessary.
- E. Develop a mechanism to ensure continued community involvement and input in the Tribe's Wastewater Management and Disposal Program.
- F. Approach nonprofit groups and other agencies for assistance or guidance in appropriate sewage storage, treatment, management and disposal. Cultivate partnerships with such groups or agencies in order to better address sewage management and disposal.
- G. Identify, investigate, and apply for private funds, federal or state grants, and financial and technical assistance, so as to further implement the Tribe's Environmental Master Plan for wastewater management and disposal.
- H. Develop a permitting process for the storage, treatment, and disposal of sewage, including the construction of sewage systems, alternative systems, and sewage treatment and disposal on the Hopland Reservation.

Inspection, Monitoring and Maintenance of Sewage Systems.

15.818. The EPA, in conjunction with the Sanel Tribal Utility District and such other agencies, nonprofit groups, and community members as they see fit, will inspect and monitor all sewage storage, treatment and disposal, including sewage systems and alternative systems, on the Hopland Reservation. The EPA will ensure through such inspections and monitoring that sewage treatment and disposal systems, including sewage systems and alternative systems, are properly maintained.

15.819. Any septic tank being used within the exterior boundaries of the Hopland Reservation on and after the effective date of this Code must be pumped and inspected at least once every five (5) years by a certified septic tank pumping, cleaning, and maintenance business. The EPA reserves the right to shorten or lengthen the time limit for such septic tank maintenance on a case-by-case basis.

15.820. The owner of property containing a septic tank must, upon request, provide documentation to the EPA in the form of an official receipt or document that such pumping has been performed within the last five (5) years, or within the period required by the EPA for that specific septic tank. Alternatively, the owner may request a waiver in writing from the EPA. A waiver request must be submitted to the EPA within two (2) weeks of the receipt of the EPA's pumping documentation request, and must clearly demonstrate why such maintenance is not required at the present time. The EPA may approve or deny such a waiver request in its sole discretion. If the EPA denies the waiver request, the owner must perform the required pumping and maintenance within thirty (30) days of receipt of the EPA's response.

15.821. Failure to comply with the EPA's septic tank pumping and maintenance requirements shall subject the owner to civil fines and penalties, in accordance with section nine (9) of this Code.

15.822. The EPA will inventory all sewage systems, including septic tanks and alternative systems, on the Hopland Reservation that fail to meet the EPA's standards and regulations for sewage treatment and disposal. Appropriate measures will be taken to bring such systems into compliance in accordance with this Code.

15.823. The EPA is hereby authorized to perform any necessary maintenance, and assess any costs associated with such maintenance on the owner, to bring any sewage system, alternative system, or septic tank located within the exterior boundaries of the Hopland Reservation into compliance with this Code and the EPA's standards and regulations. The EPA will provide the owner with written notice that such maintenance is planned, and that such costs will be assessed against the owner, unless an imminent environmental or public health and safety threat exists, as determined by the EPA in its sole discretion.

15.824. The EPA's finding that a wastewater system's, alternative system's, or septic tank's maintenance is necessary shall be final. If the EPA performs necessary maintenance on a wastewater system, alternative system, or septic tank and assesses the cost upon the owner, the owner shall be entitled to request a payment plan. The owner shall request a payment plan in writing within two (2) weeks of whichever date is later: 1) the date of actual maintenance; 2) the date of the notice that such maintenance is planned; or, 3) the date of the notice that maintenance has occurred and that the costs have been assessed against the owner. The payment plan request must clearly demonstrate why the owner is unable to pay the assessed maintenance cost, and should include supporting documentation if appropriate. The EPA may request documentation from the owner regarding his or her income, or request any other documentation as is reasonably necessary to evaluate such a request, prior to granting the payment plan request. The EPA will grant or deny a payment plan request in its sole discretion, taking into account the circumstances of the case.

Permitting, Management, and Monitoring of Sewage and Sewage Systems.

15.825. Any storage, treatment, or disposal of sewage within the exterior boundaries of the Hopland Reservation must be done in accordance with the regulations established by the

Hopland EPA's Sewage Management and Disposal Program and the Sanel Tribal Utility District.

15.826. The EPA may authorize by permit the storage, treatment, or disposal of sewage at established levels.

15.827. No person shall discharge sewage by any means from any sewage storage, treatment, or disposal system, including septic tanks and alternative systems, into surface water, onto the surface of the ground, into the groundwater, or in any other place on the Hopland Reservation without an EPA permit, unless a person has received a variance in accordance with section 15.830. This includes unintentional and intentional discharges of wastewater.

15.828. Any person who discharges sewage from any sewage storage, treatment, or disposal system, including septic tanks and alternative systems, without an EPA permit or a variance, including both intentional and unintentional discharge, is subject to civil fines and damages in accordance with this Code.

15.829. Notice: If a person discharges any sewage into any Reservation water resource, or in any place within the exterior boundaries of the Hopland Reservation, without an EPA permit or variance, regardless of whether the discharge was intentional or unintentional, that person shall immediately notify the EPA of such a discharge and shall fully disclose the information regarding the discharge, including the type of the sewage, the amount, the location, and any other relevant information.

15.830. Variances: The EPA may exempt a person from the permit requirements associated with the storage, treatment, or disposal of sewage by granting a variance. In order to obtain a variance, the person must request a variance in writing from the EPA. This request will be approved or denied by the EPA in its sole discretion. The applicant must demonstrate that:

- A. The Hopland Reservation's water resources will not be permanently altered or impaired;
- B. Public health and safety will not be threatened;
- C. No significant adverse environmental effects will occur;
- D. A mitigation plan will be implemented to offset the storage, treatment, or disposal of sewage.

A variance may only be granted for a specific period of time, not to exceed one (1) calendar year. At no time shall a person who has obtained a variance be subject to civil fines and damages for the storage, treatment, or disposal on the Hopland Reservation in accordance with the terms of the variance. However, the EPA reserves the right to verify that a person is acting in accordance with the terms of the variance through inspection and monitoring.

15.831. Duty to Investigate: The EPA has a duty to investigate the unauthorized storage, treatment, or disposal of sewage under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating groups or agencies, perform a thorough investigation of any alleged violations.

15.832. Inspections and Entry: The EPA, and any authorized Tribal representative of the EPA, shall be allowed to enter and inspect any sewage storage, treatment, or disposal system, including septic tanks and alternative systems, operating with or without an EPA pen-nit. Inspections, measuring, sampling and monitoring will be done at reasonable times for the purposes of assuring permit compliance, compliance with environmental standards and regulations, or for any other purpose as is determined necessary by the EPA to carry out the purpose of this Code. The EPA reserves the right to inspect, measure, sample and monitor all sewage, sewage storage, treatment, or disposal systems, facilities, and structures on the Reservation, regardless of whether a permit has been requested, a permit has been formally granted, is pending, or has been denied-

Administrative Remedies.

15.833. If appropriate, the EPA, in its sole discretion, will attempt to resolve any unauthorized storage, treatment, disposal or discharge of sewage, including the improper maintenance of sewage systems and alternative systems, using the administrative process outlined below. The EPA reserves the right to bypass the administrative process and file a civil action at any time.

15.834. Written Citation ("Cease and Desist Order"): If appropriate, and in its sole discretion, the EPA will issue a written citation to the alleged offender that he or she has violated this Code. The citation will explain in plain terms which conduct has violated the Code. The citation should include the following information:

- A. The purpose of the Code.
- B. The specific conduct that violated the Code.
- C. The date(s) the conduct occurred.
- D. The section of the Code that has been violated, including its contents.
- E. That the individual must "cease and desist" from engaging in any conduct that may result in the improper storage, treatment, discharge or disposal of sewage, including the improper maintenance of sewage systems and alternative systems, on the Hopland Reservation.
- F. If applicable, that an individual is in violation of his or her EPA permit.
- G. What steps must be taken to address the violation.
- H. The date by which the person must come into compliance with the Code or the permit to avoid the imposition of further penalties and fines and, if applicable, the revocation of the permit.
- I. The penalties that may be imposed if the offender continues to violate the Code or the permit, including the revocation of the permit, the maintenance of the sewage system and assessment of the cost upon the owner, or filing of a civil action.
- J. The contact information for the Tribal EPA, and that an "informal conference" may be requested to discuss the alleged violation.
- K. That the offender may administratively appeal, in writing, the EPA's finding that a violation has occurred, and the date by which this appeal must

be received by the EPA.

15.835. A record of all citations will be maintained. If a citation has already been issued to the offender, subsequent citations may increase in seriousness; for example, subsequent citations may impose increased fines for non-compliance, or may require that the offender take specific remedial steps, as determined by the EPA, to avoid further action being taken against the person.

The EPA may, in its sole discretion, proceed at any time to revoke a permit, perform necessary maintenance and assess the cost upon the owner, file a civil action or injunction against the offender, or take any other action as it deems necessary, at any time.

A. First Offense: The EPA may, in its sole discretion, impose a fine up to \$100.00 dollars.

B. Second Offense: The EPA may, in its sole discretion, impose a fine up to \$500.00 dollars.

C. Third Offense: The EPA may, in its sole discretion, impose a fine up to \$1000.00 dollars.

15.836. Administrative Appeal: If, after receiving a written citation, the alleged offender believes that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing to the EPA Director. This appeal must be received by the EPA within two (2) weeks of the date of the written warning. The appeal must clearly state why the person believes that he or she has not violated the Code, and may include any supporting documentation. The EPA will include a copy of the appeal in that person's file. Within two (2) weeks of receiving such an appeal, the EPA will either:

A. Schedule a formal meeting with the Director, the offender, and any other interested parties regarding the appeal; or,

B. The Director will affirm or deny the appeal in writing without scheduling a meeting.

If a formal meeting is scheduled, a formal decision will be provided in writing within two (2) weeks of the meeting. The EPA will attempt to use a shared decision-making process during this process whenever possible. A copy of the decision will be sent to the offender and placed in his or her file. The decision of the EPA regarding the administrative appeal shall be final.

Civil Damages.

15.837. Any person who violates any of the provisions of this Code is subject to an assessment of civil fines and damages for such unlawful activities. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court, or another court of competent jurisdiction, seeking recovery for damages incurred by the unlawful conduct, including reasonable attorney's fee and costs. Any person who is found by the court to have committed the alleged violations shall be subject to an obligation to reimburse the Tribe for all costs associated with such violations, including the costs of clean-up, abatement, and the

administrative costs associated with the enforcement of this Code, in addition to, at the court's discretion, a civil penalty in an amount up to \$500.00 for each day of each violation.

15.838. All civil damages shall be paid to the Tribe. Reasonable attorney's fees and costs shall be paid to the Tribe.

15.839. Any person who is not a member of the Hopland Tribe who is found by a court to have violated any provision of this Code may be excluded from the Reservation, and may have his or her rights to engage in commercial transactions or consensual dealings on the Reservation suspended or terminated.

15.840. Civil damages, civil penalties, fees, costs, and related recoveries do not limit any other remedies which may be available to the Tribe, including the filing of an action for an injunction in a court of competent jurisdiction.

Traditional Dispute Resolution ("Peace Keeping Court").

15.841. The Hopland Tribal Council may, at its discretion, and in accordance with its sovereign power as a recognized law-making body, create a traditional dispute resolution process in accordance with the Tribe's traditional laws and customs. The forum for this traditional dispute resolution process shall be known and referred to as the "Peace Keeping Court".

15.842. Any person over whom the Tribe retains the inherent sovereign power to exercise civil jurisdiction, and over whom the Tribe chooses to exercise such jurisdiction in accordance with any alleged violation of this Code, may elect to use the Tribe's "Peace Keeping Court" as an alternative to the Tribal Court, unless the EPA demonstrates that extenuating circumstances indicate that a referral to the "Peace Keeping Court" is not in the Tribe's best interests. Such extenuating circumstances may include, but are not limited to: the offender's recidivism, as demonstrated by previous offenses; previous referrals to the "Peace Keeping Court" where the offender demonstrated a failure to fully cooperate with the traditional dispute resolution process; a demonstrated lack of good faith in the offender's request to transfer the action to the "Peace Keeping Court".

15.843. If an action is filed in the Hopland Tribal Court by the EPA against any person over whom the Tribe has civil jurisdiction, Notice of such a pending action will be provided to the alleged offender. This Notice will inform the alleged offender that he or she, in accordance with the policies and procedures of the Tribal Court, may affirmatively request in writing to proceed in the "Peace Keeping Court", as an alternative to the Tribal Court, within thirty (30) days of receipt of Notice of the pending action.

15.844. If the Tribal Court receives a request to proceed in the "Peace Keeping Court" within the thirty (30) days allotted for responding to the Notice, the Court shall approve such a request, unless the EPA demonstrated that it was not in the best interests of the Tribe, in accordance with section 15.842. The Tribal Court will then provide Notice to all relevant parties

that the request to transfer to the "Peace Keeping Court", as established by the Tribal Council, has, or has not, been approved.

15.845. If the Tribal Court approves such a request to transfer a matter to the "Peace Keeping Court", the Tribal Court will forward all associated documentation to the "Peace Keeping Court". Once the "Peace Keeping Court" receives the transferred file from the Tribal Court, it will provide notice to the alleged offender, in accordance with its policies and procedures, regarding the traditional dispute resolution process. If the offender elects to participate in the Tribe's traditional dispute resolution process, the process will be governed by the traditional laws and customs of the Tribe.

15.846. The Tribal Court will retain continuing jurisdiction over any matter transferred to the "Peace Keeping Court".

Arbitration and Mediation.

15.847. The EPA reserves the right to use arbitration or mediation to resolve any conflicts that arise from alleged violations of this Code. The EPA may initiate arbitration or mediation proceedings instead of filing a civil action in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, in its sole discretion.

15.848. Any person who is alleged to have violated the terms of this Code, and who has had a civil action filed against them in the Tribal Court, Peace Keeping Court, or any other court of competent jurisdiction, may request arbitration or mediation by requesting this in writing within two (2) weeks of the date of notice regarding the civil action. The written request must be filed with the appropriate court, as well as with the EPA. If the EPA does not object, the court shall grant such a request at its own discretion. The person will receive written notice regarding whether his or her request to proceed in arbitration or mediation has been approved or denied by the EPA within two (2) weeks of the date of such a request.

Severability.

15.849. If any section, provision, or portion of this Code is determined by a court of competent jurisdiction to be invalid, such a determination shall not affect, impair, or invalidate any other section, provision, or portion of this Code, nor shall a determination by a court of competent jurisdiction that a section, provision, or portion of this Code is invalid as applied render such section, provision, or portion inapplicable to other persons or other circumstances.

Sovereign Immunity.

15.850. The Hopland Band of Pomo Indians' sovereign immunity shall not be waived or limited in any manner by this Code.

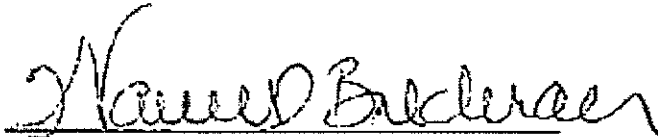
Effective Date, Amendment.

15.851. This Code shall be effective from the date of its approval by the Tribal Council. This Code may be amended in accordance with Tribal law.

CERTIFICATION

The foregoing Code was adopted at a Special meeting of the Hopland Tribal Council held on the 1st day of February, 2006, by the following vote:

5 Ayes 0 Nays 0 Abstain 2 Absent


Wanda D. Balderama, Chair

2/1/06
Date

ATTESTED:


Roman Carrillo, Secretary

2/1/06
Date