



**PECHANGA INDIAN RESERVATION**  
*Temecula Band of Luiseño Mission Indians*

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Corrina R. Garbani Sanchez  
Benjamin "Ben" Vasquez

Tribal Secretary:  
Louise Burke

Tribal Treasurer:  
Christina McMenamin

June 19, 2013

Dear Pechanga Tribal Members:

Miiyumiiyu. Enclosed with this letter you will find the Pechanga Fire Safety Ordinance of 2013 as approved by the General Membership on May 19, 2013 and later amended on June 9, 2013. Below is a list of the key points to the Ordinance, along with a reference to the section:

- Permission must be obtained from the Pechanga Fire Department for all open burning and recreational burning. Notice shall be given to the Pechanga Rangers. Article 4 & 5.
- Burning of rubbish or waste other than vegetative waste is prohibited at all times. Section 4.5.
- No person shall light, maintain or use a fire on a Red Flag Alert day. Section 4.6.
- Ongoing approval for repeated use of an approved fire circle or fire pit can be achieved through a permit; certain conditions apply to the permitting process. Section 5.5.
- Fireworks are prohibited within the reservation except by permit issued by the Fire Chief. Section 6.1.
- Citations and fines will be issued to any person(s) committing a violation of this ordinance. Article 7.

Please read the Pechanga Fire Safety Ordinance carefully. If you have any questions, you may contact the Pechanga Fire Department at (951) 770-6001 or the Pechanga Office of General Counsel at (951) 770-6178. Thank you for your cooperation in keeping the Pechanga Indian Reservation safe and from harm.

Respectfully,

Louise Burke  
Tribal Secretary  
Enc.



## **Pechanga Band of Luiseño Indians**

### **Pechanga Fire Safety Ordinance Ordinance 2013-0519-01**

Be it enacted by the General Membership of the Temecula Band of Luiseño Mission Indians of the Pechanga Indian Reservation (hereinafter, "Pechanga Band") as follows:

#### **Article 1: Legislative Intent**

The Pechanga Band is a self-governing sovereign entity with responsibility for protecting the health, welfare and safety of its members and of the residents of the Pechanga Indian Reservation. The Pechanga Indian Reservation is highly susceptible to wildfires and its residents have experienced loss of homes and threats to life in the past due to fire. Fires do not respect political boundaries and do not distinguish between private and tribal lands. The danger posed to human life and property requires that the Pechanga Tribal Government exercise its legitimate jurisdiction throughout the Reservation to prevent wildfires. To reduce the risk and minimize the threat to life and property posed by wildfires and illegal fireworks which can and have caused wildfires on the Reservation, the General Membership of the Band hereby decrees and enacts the following Fire Safety Ordinance.

#### **Article 2: Definitions**

"Barbeque" means a metal receptacle holding live coals or a simple device using fuel such as propane, gas, charcoal or electricity covered by a grill or thin metal top, used for preparation of food outdoors.

"Bonfire" *see* "Recreational Fire."

"Campfire" *see* "Recreational Fire."

"Ceremonial Fire" means the outdoor burning of materials other than rubbish for ceremonial or religious purposes, where fuel being burned is not contained in an incinerator, Fireplace or Barbeque.

"Clean Wood" means natural wood which has not been painted, varnished or coated, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

"Fire Chief" means the Chief of the Pechanga Fire Department or other person authorized by the Fire Chief.

"Fire Circle" means an outdoor site where rocks or bricks encircle a dirt area for the burning of wood for Recreational or Ceremonial Fires. An area of no less than ten (10) feet around the circumference of the Fire Circle must be clear of any combustible materials.

“Fire Hazard” means any act or thing which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fires, or any act or thing which could obstruct, delay hinder or interfere with the operation of the Pechanga Fire Department or egress of occupants in the event of fire.

“Fire Nuisance” means any act or thing which is annoying, unpleasant, offensive or obnoxious including smoke because of fire.

“Fire Pit” means an outdoor site where rocks or bricks encircle a pit of any depth used for the burning of wood for Recreational or Ceremonial Fires. An area of no less than ten (10) feet around the circumference of the Fire Pit must be clear of any combustible materials.

“Fireplace” means a fire chamber or similar prepared structure in which a fire may be made and which is built in conjunction with a chimney.

"Fireworks" means any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects as pyrotechnic devices or for entertainment. The term "fireworks" includes, but is not limited to, firecrackers, devices designated by the manufacturer as fireworks, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits, and includes so-called “safe and sane” fireworks as well as those fireworks commonly described as “dangerous.”

“Open Burning” means the outdoor burning of any vegetative material, rubbish or other material for the purpose of disposal of such material in an outdoor location where fuel being burned is not contained in an incinerator, Fireplace, Barbeque, Fire Circle or Fire Pit, where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. It does not include Recreational or Ceremonial Fires, road flares, smudge pots or other similar safety or occupational uses.

“Rangers” means the Pechanga Tribal Ranger Department and its personnel.

“Recreational Fire” means the outdoor burning of materials other than rubbish where fuel being burned is not contained in an incinerator, Fireplace, Barbeque and with a total fuel area of 4 feet or less in diameter and 2 feet or less in height for, cooking, pleasure, warmth, or similar purposes. The term “Recreational Fire” includes Campfires and Bonfires.

“Red Flag Alert” also known as Red Flag Warning or Fire Weather Warning means a forecast warning issued by the National Weather Service to inform area firefighting and land management agencies that conditions are ideal for wildland fire ignition and rapid propagation.

"Refuse" means any waste material except Clean Wood.

“Smudge Pot” means a receptacle in which oil or another smoky fuel is burned to protect an orchard from insects or frost.

“Tribal Council” means the elected Tribal Council of the Pechanga Band of Luiseno Mission Indians.

“Tribal Member” means any enrolled member of the Pechanga Band of Luiseno Mission Indians.

### **Article 3: Limitations**

This Ordinance does not apply to nor prohibit grilling or cooking using charcoal, wood, propane or natural gas in a Barbeque or other cooking or grilling appliance; nor burning in a stove, furnace, Fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes Refuse as defined in this Ordinance; nor to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities, unless such device has been determined unsafe by the Fire Department; provided that all such use is supervised and kept under control by a responsible adult, and that such use is conducted on the property of the person in control or with the permission of the property owner.

### **Article 4: Open Burning and Refuse Burning**

4.1 Prior notification to, approval of burn site and permission from the Pechanga Fire Department is required for all Open Burning within the exterior boundaries of the Pechanga Indian Reservation. Prior notice shall be given to the Rangers in person or by telephone (951) 770-6196, or by email to [PFDburnnotification@pechanga-nsn.gov](mailto:PFDburnnotification@pechanga-nsn.gov). Permission of the Fire Department will not be granted when in their judgment weather conditions make the uncontrolled spread of fire likely or when the air quality within the Pechanga Indian Reservation would make a fire hazardous to the public health.

4.2 Open Burning shall be conducted no less than fifty (50) feet from the nearest occupied or unoccupied structure and only where there are no overhanging branches or other vegetation.

4.3 Open Burning shall be constantly attended and supervised by a competent adult of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

4.4 No open flame device that may constitute a Fire Hazard shall be permitted on the Pechanga Indian Reservation.

4.5 Burning of rubbish or any waste other than vegetative waste is prohibited at all times within the Pechanga Indian Reservation.

4.6 No person shall light, maintain or use a fire on a Red Flag Alert day.

**Article 5: Campfires, Ceremonial and Recreational Fires**

5.1 Prior notification to, approval of burn site and permission from the Pechanga Fire Department is required for all Recreational and Ceremonial Fires as defined herein within the exterior boundaries of the Pechanga Indian Reservation. Prior notice shall be given to the Rangers in person or by telephone (951) 770-6196, or by email to [PFDburnnotification@pechanga-nsn.gov](mailto:PFDburnnotification@pechanga-nsn.gov). Permission of the Fire Department will not be granted when in their judgment weather conditions make the uncontrolled spread of fire likely or when the air quality within the Pechanga Indian Reservation would make a fire hazardous to the public health.

5.2 Recreational Fires shall be limited to a total fuel area of four (4) feet or less in diameter and two (2) feet or less in height; shall be conducted in a location where there are no overhanging branches or other vegetation; shall be confined by a control device or structure such as a barrel, Fire Ring or Fire Pit; and shall be conducted in accordance with any additional requirements, precautions or provisions established by the Fire Chief.

5.3 Prior notice to the Fire Department is encouraged for all Ceremonial Fires. No person shall light, maintain or use a Ceremonial Fire when unreasonably high fire hazard conditions are present.

5.4 Recreational Fires shall be constantly attended and supervised by a competent adult of at least eighteen (18) years of age until the fire is extinguished and is cold. The responsible person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire. No person shall allow a fire to spread after it is built.

5.5 At the request of an adult Tribal Member, the Fire Chief may issue an ongoing approval for repeated use of an approved Fire Circle, Fire Pit or other site on such Tribal Member's property for small Ceremonial or Recreational Fires. An adult with such ongoing approval shall be permitted to use the approved site at will without specific clearance from the Pechanga Fire Department on each occasion, provided that the adult be personally present to supervise each use, and provided that the adult not use or permit the use of the site when high fire hazard conditions are present. The Fire Chief shall only issue an ongoing approval to an adult Tribal Member who has proved his or her understanding of fire safety and willingness to comply with all lawful directives of the Fire Chief. The adult Tribal Member receiving an ongoing approval shall be legally and financially responsible for any damage caused by a fire which he or she makes or permits to be made in such site.

5.6 No person shall light, maintain or use a fire upon land which is the property of another person without permission of such person.

5.7 No person shall light, maintain or use a Recreational Fire on a Red Flag Alert day.

**Article 6: Fireworks**

6.1 Due to the high danger of fire and loss of life or limb, the possession, sale or use of Fireworks within the Pechanga Indian Reservation is prohibited except by permit issued by the Fire Chief pursuant to all applicable laws and regulations. The Fire Chief shall issue such regulations relating to permits as may be necessary for the safety of persons and property.

6.2 Permits shall be issued by the Fire Chief only for firework and pyrotechnic display events conducted at the Pechanga Powwow Grounds and other locations approved by the Fire Chief.

**Article 7: Enforcement and Penalties**

7.1 The Pechanga Tribal Rangers shall issue a citation, in writing, to any person committing a violation of this Ordinance. All such citations shall contain a statement of the nature of the violation and the date and time of occurrence. The Pechanga Tribal Rangers shall forward a copy of each citation issued to the Tribal Council via the Pechanga Office of the General Counsel, which shall cause to be mailed to the person cited a notice containing the amount of a fine for the offense, and providing notice of the right to a hearing to contest the citation.

7.2 The Pechanga Tribal Rangers shall be empowered to seize and impound illegal Fireworks.

7.3 Processing and disposition of citations.

- (a) Any person who receives a citation for violation of this Ordinance may request a review by the Tribal Council. Tribal Council may in exercise of its judgment dismiss any citation upon review of the evidence or may meet informally with any such person to resolve the matter. If it does not dismiss the citation after such review or meeting and the person cited continues in his or her request, Tribal Council shall cause a hearing to be conducted. A quorum of Tribal Council shall act as Hearing Officers, until such a time as a tribal judicial system is created with jurisdiction over citations issued pursuant hereto, except that Tribal Council shall have the discretion to retain the services of any competent person or persons to serve as Hearing Officer(s) in lieu of Tribal Council. All references to Tribal Council in this Ordinance which relate to the conduct of such hearings shall mean and include any Hearing Officers(s) appointed by Tribal Council, except that Tribal Council shall review and either approve, modify or disapprove all orders made by Hearing Officers. Hearings shall be conducted according to the procedures set forth herein. At such time as a tribal court is created with jurisdiction over violations of this Ordinance, such court shall be empowered to fill the role described herein for Tribal Council.
- (b) Any person who fails to appear at a hearing for which he or she has been provided written notice pursuant to this Ordinance may be found by default to have abandoned his or her appeal, and shall be subject to the penalty for violation of this Ordinance.

7.4 The fine for each violation of this Ordinance shall be \$500.

7.5 [RESERVED]

7.6 When approved by, and at the direction of, the Pechanga Tribal Council, the Fire Chief may appoint a Fire Enforcement Officer, who shall be an employee of the Pechanga Fire Department, and who shall have the same enforcement powers and duties which are assigned in this Ordinance to the Pechanga Tribal Rangers.

#### **Article 8: Hearing Procedures**

8.1 The Fire Chief and/or Ranger who issued the citation shall appear at the hearing and shall present evidence against the person who was cited (hereinafter, the “appellant”) or may otherwise cause such evidence to be presented to Tribal Council.

8.2 Evidence in the form of, but not limited to: photos, videos, written documents and witness testimony to substantiate that the violation did or did not occur may be presented at the hearing.

8.3 The appellant shall have an opportunity to make a statement to Tribal Council, question witnesses, and to present witnesses and documents on his or her own behalf to show that he or she did not violate this Ordinance.

8.4 The hearing shall be open to all Tribal Members. Victims and witnesses to any damages caused by fire due to violation of this Ordinance shall be afforded an opportunity to testify.

8.5 Tribal Council may, for good cause shown, grant a continuance of any hearing upon its own motion or upon the request of an appellant, the Fire Chief or the Rangers. In the event of a continuance, the appellant shall be provided with written notice of the date and time of the continued hearing.

8.6 Tribal Council, in making a final determination based on preponderance of the evidence, may disregard any evidence or testimony determined to be unreliable, untruthful or unsubstantiated.

8.7 Within thirty (30) days following the hearing, Tribal Council shall issue a written decision. Tribal Council may, in its discretion, verbally issue a decision at the hearing in addition to issuing a written decision.

#### **Article 9: Contents of the Written Decision; Penalties**

9.1 The written decision shall set forth the final determination of the matter by Tribal Council. The written decision may, but need not, contain findings of fact.

9.2 The written decision shall be final and shall state "FINAL DETERMINATION."

9.3 The written decision shall specify any and all fines ordered for violation of this Ordinance and shall specify the amount of restitution ordered to be paid to any persons injured, or whose property has been damaged, lost or destroyed by violation of this Ordinance.

9.4 Fines and restitution shall be enforced as follows:

- (a) For Tribal Members, the fine shall be deducted from any per capita payment (s) otherwise payable.
- (b) Non-members may be billed for the fine, and may be banned from the Pechanga Indian Reservation if they do not pay.
- (c) Non-member spouses, Tribal Members who do not yet receive per capita payments, guests, and other non-tribal family members or dependents of Tribal Members are the responsibility of the Tribal Member under whose rights such person enters the Pechanga Indian Reservation. Accordingly, Tribal Council may order that any fine or restitution imposed against such person under this Ordinance be deducted from the responsible Tribal Member's per capita payments.

**Article 10: Sovereign Immunity**

Nothing in this Ordinance is intended to, nor shall in any way be interpreted to waive or limit any aspect of the sovereign immunity of the Pechanga Band or its officers or employees.

**Article 11: Severability**

If any provision of this Ordinance is found by any agency or court of competent jurisdiction to be unenforceable, the remaining provisions shall be unaffected thereby.

**Article 12: Amendment**

This Ordinance may be amended by majority vote of the General Membership of the Pechanga Band at a duly noticed meeting; additional rules may be added by such amendment process.

**Article 13: Effective Date**

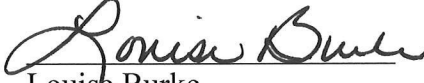
This Ordinance shall take effect on the day following its enactment by the General Membership of the Pechanga Band.



## CERTIFICATION

The undersigned, the duly authorized Secretary of the Temecula Band of Luiseño Mission Indians, sometimes referred to as the Pechanga Band of Mission Indians, federally recognized as the Pechanga Band of Luiseño Mission Indians, does hereby certify that the foregoing Act was approved at a duly called General Membership Meeting held on the 19<sup>th</sup> day of May, 2013, by a vote of 94 "for," 15 "against," and 2 "abstentions," and amended at a duly called General Membership Meeting held on the 9<sup>th</sup> day of June, 2013, and such Act has not been rescinded or further amended in any way.

Dated: June 17, 2013

  
Louise Burke  
Tribal Secretary



# PECHANGA FIRE DEPARTMENT

## EXHIBIT A

Pechanga Fire Safety Ordinance No. 2013-0519-01

- Maximum pile size is 4 feet in diameter.
- Provide an area of no less than ten (10) feet around the circumference of each burn pile, fire circle, etc. The area must be clear of all combustible materials including vegetation and overhanging branches.
- No less than 50 feet between burn site and any structures.
- Provide adequate means for fire extinguishing such as a charged garden hose or 5 gallon pressurized water extinguisher and a shovel.
- Total extinguishment of fire is the responsibility of the person burning.
- Fires must be constantly attended by an adult capable of using fire extinguishing equipment and who is familiar with this notification information, until the fire is completely extinguished.
- No burning is permitted during “Red Flag Alerts”.
- Burning of any waste other than vegetative debris is prohibited at all times.

