



PECHANGA INDIAN RESERVATION
Temecula Band of Luiseno Mission Indians

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**PECHANGA WATER SYSTEMS
BYLAWS**

Ordinance No. 2012-0930-1

PREAMBLE

The General Membership of the Pechanga Band of Luiseno Indians, as a sovereign government, and having final say and judgment over all Tribal affairs, do hereby affirm that since time immemorial it has been the custom, tradition and responsibility of our people to preserve our resources for future generations. It is in this spirit that we, the members of the Pechanga Band of Luiseno Indians, establish these Bylaws so that the duly elected Board of Directors of the Pechanga Water Systems can ensure that all who come after us may enjoy the same blessings as all who have come before.

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SECTION 1 - PURPOSE

Purpose: To establish rules for the safe, efficient and economical operation and maintenance of the Pechanga Water Systems and to provide for the delivery of a reliable supply of safe and clean domestic, commercial and agricultural water to the Pechanga Indian Reservation, in furtherance of the sovereignty of the Pechanga Band and subject to the provisions of the Constitution and Bylaws of the Band.

Whereas: Since 1976, the Pechanga Band of Luiseno Mission Indians has maintained the Pechanga Water Systems and has supplied homes and businesses within the Pechanga Indian Reservation with high quality drinking water; and

Whereas: The growth of the Pechanga Tribal Government, its enterprises and population on the Pechanga Indian Reservation have necessitated a new ordinance to meet the Band's current and future water needs.

Therefore, be it ordained that this Ordinance shall govern the operation and maintenance of the Pechanga Water Systems of the Pechanga Indian Reservation.

SECTION 2 – DEFINITIONS

“Agricultural” shall mean and refer to the use of water for the cultivation or production of any crop intended for sale and for the cultivation of fields used for the grazing of livestock intended for sale or for production of food items intended for sale.

“Angle stop” shall mean and refer to a water shut-off valve between a main line and a service user's line.

“Band” or “Pechanga Band” shall mean and refer to the Temecula Band of Luiseno Mission Indians, sometimes referred to as the Pechanga Band of Mission Indians, federally recognized as the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation.

“Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Pechanga Water Systems.

“Commercial” shall mean and refer to the use of water by or for any business, including any entity or enterprise of the Band.

“Domestic” shall mean and refer to the use of water for residential purposes only.

“Fire hydrant lines” shall mean and refer to those lines owned by the Pechanga Band, whose sole function is to transport water from the source of supply for fire prevention and suppression and which are or shall be located strategically throughout the Pechanga Reservation.

“General Membership” shall mean and refer to the General Membership of the Pechanga Band, its governing body as set forth in the Constitution and Bylaws of the Pechanga Band of Luiseno Mission Indians.

“Main lines” shall mean and refer to those lines owned by the Pechanga Band whose function is to transport water from the source of supply to those places on the Pechanga Reservation where it may be made available for governmental, commercial or domestic use.

“Member” shall mean and refer to any person enrolled as a tribal member in the Pechanga Band.

“Service lines” shall mean and refer to those lines located on allotted or fee lands within the Pechanga Indian Reservation and installed by individual Pechanga Water Systems users (or installed by Pechanga Water Systems under contract with said users), whose function is to bring water from the main lines to their respective houses, structures, fields, businesses, etc.

“Sprinkler service lines” shall mean and refer to those lines installed and owned by the Pechanga Band, whose function is to transport water to existing or future recreation or landscaping areas owned or maintained by the Band as needed and approved by the Pechanga Water Systems or Pechanga Public Works.

“Tribal Council” or “Council” shall mean and refer to the Pechanga Tribal Business Council, sometimes referred to as its “Business Committee.”

Throughout this Ordinance, use of the word “may” means that an action is permitted and voluntary; use of the word “shall” means that an action is mandatory.

SECTION 3 - REPEAL OF FORMER ENACTMENTS

Upon approval by the General Membership of the Pechanga Band, this Ordinance shall become effective as the law of the Band, and all prior inconsistent enactments, including Ordinances and Bylaws of or pertaining to the Pechanga Water Systems, shall automatically be repealed.

SECTION 4 – AUTHORITY

Pechanga Water Systems shall have authority over domestic, commercial and agricultural water supplied to all of its users, pursuant to the provisions of this Ordinance. The Pechanga Water Systems Board, under the supervision of the Pechanga Tribal Council and ultimately, the adult General Membership of the Pechanga Band, shall have the sole authority to adopt, amend and enforce operational rules and guidelines for the delivery of water through the equipment and facilities of Pechanga Water Systems. Any installation

or repair of Pechanga Water Systems equipment or water lines anywhere on tribal lands within the Pechanga Indian Reservation must be approved and inspected by Pechanga Water Systems. Installation and repair of equipment and water lines within individual allotments is the responsibility of the landowner but they are encouraged to seek advice from Pechanga Water Systems. Pechanga Water Systems shall have the authority to take appropriate action to prevent the wasteful use of tribal water resources and to ensure that delivery of water to its customers meets all industry safety standards and applicable legal requirements.

SECTION 5 - PECHANGA WATER BOARD OF DIRECTORS

a. Composition of the Board

1. Pechanga Water Systems shall be managed by and at the direction of the Pechanga Water Board of Directors (the "Board").
2. The Board shall consist of seven members, who shall be nominated and elected by majority vote of the Pechanga General Membership at an official general meeting.
3. Qualifications: All persons serving on the Pechanga Water Board of Directors shall be enrolled members of the Pechanga Band not less than twenty-five years of age.
4. Vacancies: A vacancy shall be automatically created when a Director resigns, dies or is removed for cause by action of the Pechanga Tribal Council or the General Membership. A vacancy may be created by a vote of the remaining Board members in the event a Board member fails to attend three consecutive Board meetings or becomes unable to serve by reason of incapacity. The Board will inform the Tribal Council in writing when a vacancy exists on the Board, except in the case of a vacancy created by Tribal Council or General Membership action.

b. Board Officers

1. The Board shall select from amongst themselves a Chairperson and Vice Chairperson as officers. These officers shall serve at the pleasure of the Board as a whole. The remaining Board members shall serve as at-large Board members.
2. The Chairperson will conduct meetings and notify, or cause to be notified, all Board members of all meetings and shall see that every member is informed of all business that pertains to the Board. The Vice Chairperson shall be responsible for the duties of the Chairperson in his or her absence.

c. Duties and Powers of the Board

1. The Board shall be empowered to take measures to encourage and ensure the conservation and preservation of the Band's water resources.
2. The Board shall be responsible for and in charge of keeping the Pechanga Water System in safe and efficient operational condition. The Board will exercise

diligence and care to furnish and deliver, within the capabilities of the system, a continuous and sufficient supply of safe and clean water to the approved users residing or located on the Pechanga Reservation and to avoid shortage or interruption of water service.

3. The Board shall hold at least one official meeting per month.
4. The Board shall adhere and be subject to this Ordinance, regulations of the Pechanga Band and other applicable laws.
5. The Board shall be responsible for hiring, appointing, and managing the staff of the Pechanga Water Systems, including but not limited to a Director and a Secretary in accordance with the traditions, personnel policies, laws and the Constitution and Bylaws of the Pechanga Band, and subject to the oversight of Tribal Council.
6. The Board may set reasonable fees for water service, including installation fees, subject to conditions set forth herein.
7. The Board is responsible for issuing penalties for non-compliance with rules and procedures as stated in these Bylaws.
8. The Board has the authority to review all existing hook-ups with regard to legal status, safety and adherence with all applicable technical standards, and to require that all non-compliant hook-ups be brought into full compliance therewith.
9. The Board shall have the affirmative duty to ensure that the Pechanga Water Systems are in compliance with all applicable laws, regulations and safety standards at all times.

SECTION 6 – RECORDS

- a. The Pechanga Water Systems shall maintain accurate and up to date records on its facilities and equipment, as well as on the water system itself.
- b. The Pechanga Water Systems shall maintain accurate and up to date records on its water testing procedures and results.
- c. The Pechanga Water Systems shall maintain accurate and up to date records on its staff including safety records, procedures and industry certifications.
- d. The Pechanga Water Systems shall maintain accurate and up to date records on all water users including records pertaining to equipment and apparatuses used for water delivery, locations of delivery equipment on allotted, tribal or fee property, and relevant information of owners of said property for billing, repair or notification purposes.
- e. The Pechanga Water Systems shall have the authority to access such property records in possession of the Band or the United States Bureau of Indian Affairs as it may require to conduct its business, subject to appropriate protections for the confidentiality of the records and property owners.

- f. Water users shall be required to provide copies of land ownership, right of way, lease records, or other relevant information or records to the Pechanga Water Systems upon request.
- g. The Board of Directors shall employ a secretary who shall be responsible for taking official minutes of all Board meetings and for approval and maintenance of the minutes, subject to supervision by the Board.
- h. The minutes of all meetings of the Board of Directors shall be open to inspection by Band members upon request.
- i. Billing and accounting of funds and maintenance of all financial records in connection with the operation and maintenance of the Pechanga Water Systems shall be the responsibility of the Board unless Tribal Council assigns this responsibility to the Pechanga Financial Department.
- j. In any case, the Board shall take all reasonable measures to ensure the security and confidentiality of such records.

SECTION 7 - APPLICATIONS FOR NEW WATER SERVICE

- a. Any person or entity wishing to receive new water service shall be required to complete, sign and file with the Pechanga Water Systems an official application provided by the Board. The application shall require at least the following information:
 - 1. Name of applicant, mailing address, and date of application;
 - 2. Pechanga Tribal member or non-member;
 - 3. Physical address;
 - 4. Map of property with proposed location of angle stop;
 - 5. Type of service requested: e.g. business, domestic, agriculture, etc;
 - 6. Copy of trust document or fee deed showing legal interest of applicant;
 - 7. Documentation of right of way for utility service if applicable, or indemnification agreement;
 - 8. Other relevant information the Board may reasonably need to carry out its functions.
- b. The Pechanga Water Systems may establish connection fees for new water users which shall cover the costs to the Band for labor and materials necessary for the new service.
- c. The Pechanga Water Systems shall not extend service in the absence of compliance with all of the above requirements and payments, if any. Exception: in the case of natural disaster or other emergency, the Board may provide short term water service for humanitarian relief.

- d. Non-Pechanga Tribal members: In addition to the above requirements, when an application for service is received from any person who is not a Pechanga tribal member, if the Board determines that the application is proper and meets the requirements of this Ordinance, it shall provide written notice of the name of the applicant and location of the property to the General Membership. If any written objection is received from a Pechanga tribal member within thirty (30) calendar days of mailing of said notice, the Board shall first offer to meet with the objecting tribal member and if that resolves the objection, the Board may approve the application. If the Board is unable to resolve the matter informally with the objecting party, it shall forward the application to the Tribal Council for the question of approval to be placed on a General Membership meeting agenda. The General Membership's determination shall be final. Non-members shall pay all costs associated with the extension of a main line, hookup, etc. that may be required to connect their residence to the system.

- e. Transferability: The following rules shall apply whenever a dwelling which is connected to the system changes ownership:
 - (1) When a service user vacates or abandons a property or home for any reason and a new resident who is a Pechanga tribal member inhabits said property or home, then the new resident shall file an application with Pechanga Water Systems for the sole purpose of ensuring accurate records and billing;
 - (2) When a service user vacates or abandons a property or home for any reason and a new resident who is a non-member inhabits said property or home, then the new resident shall file an application with Pechanga Water Systems. Failure to file a new application within one month of change of ownership or occupancy may result in termination of service. Such application is subject to the reasonable approval of the Directors. Subsection (d) shall not apply in the case of such applications.
 - (3) When a tribal member water user passes away and a non-member spouse becomes the head of household, a new application for water service must be filed with Pechanga Water Systems for the sole purpose of ensuring accurate records and billing. The non-member spouse of the deceased tribal member shall be entitled to remain at the tribal member rate for water.

- f. Construction of any new buildings or structures which receive or will receive water from Pechanga Water Systems, within a property which is currently receiving service may, at the determination of the Board, require the filing of a new application for service. In such cases the Board shall base its determination on the proposed or actual uses of the new building or structure, amount of actual or anticipated water use, and other relevant factors.

- g. Applicants must agree to all rules and conditions of this Ordinance.

- h. No person whose residence is legally receiving water from Pechanga Water Systems at the time of the enactment of this Ordinance shall be required to re-apply for water

service, but all such persons may be required to provide missing data regarding their service account.

SECTION 8 - RULES FOR WATER USERS

- a. Domestic water shall be used in an efficient, safe, and careful manner.
- b. **No unauthorized use shall be permitted. No person shall connect a residence or other building or facility to Pechanga Water Systems main lines or to any service line except pursuant to the application process set forth in this Ordinance.**
- c. In times of water shortage, any non-domestic use, including irrigation or commercial use, may be limited or suspended in order to assure a sufficient supply of domestic water.
- d. All users are required to maintain their service lines from the meter or angle stop to their site of water application in a safe, sanitary and efficient condition. It shall be the right of the Board to determine what constitutes safe, sanitary, and efficient service lines in accordance with industry standards.
- e. All users shall grant such access to premises as is necessary for the inspection of service or main lines.
- f. **All persons are prohibited from altering, adjusting, or otherwise tampering with main lines, meters, fire-hydrants, sprinkler lines, or any Pechanga Water Systems or Band property.**
- g. Non-compliance with the above rules and procedures may result in restriction, suspension or termination of water service. In addition, the Board reserves the right to refer individuals or entities to the Tribal Council for disciplinary action for failure to adhere to the above rules.
- h. Separate water service will be required for each separate residence, and the water account for each residence must be in the name of a person who lives in that residence.

SECTION 9 - RATES

- a. Rates for water service at the time of enactment of these Bylaws are: \$15 (fifteen dollars) per month for tribal members and \$25 (twenty-five dollars) per month for non-members.
- b. The Board may evaluate rates not more than once per year, and may adjust the rates after any such evaluation by official Board action taken at a duly noticed Board

meeting. In such cases the Board shall provide at least one month's written notice to all water users and to Tribal Council.

The Board shall be empowered to set different rates for domestic, agricultural and commercial water service for residences and for individually owned and tribally owned commercial enterprises served by Pechanga Water Systems, provided that all rates shall be reasonable. All rates shall be subject to change based on operational expansion, demand, supply and/or individual usage. Rates may be based on a metered, tiered or flat rate system, at the Board's determination. Any objection by a tribal member to proposed new rates may be brought to the General Membership for determination.

- c. The Board shall set different rates for Pechanga tribal members vs. non-tribal members. Non-member rates shall not exceed rates charged by other water agencies.
- d. The Board may set different rates for users who voluntarily agree to periodic automatic deductions either from tribal revenue per-capita distributions or bank transfers.
- e. The Board may levy fees or surcharges on commercial or industrial users for maintenance, upgrades, or certifications when necessary under applicable law.
- f. The Board may establish a reasonable connection fee to cover the costs of labor and materials associated with connection operations.
- g. The Board shall be empowered to enforce payment of service charges to water users who are delinquent in payment subject to the following policy:
 1. A delinquent user is defined as a user who fails to pay for three months of water service.
 2. Delinquent water service charges from Pechanga tribal members are subject to the following procedures:
 - A. First, a written notice shall be provided to the delinquent user informing them of the amount of immediate payment due and the subsequent consequences of failure to pay, outlined herein. Notice may be sent via U.S. mail or hand delivered.
 - B. If payment is not received within ten (10) business days after the above notice is provided, the delinquent service charge shall be deducted from any tribal distributions ("per-capita" payments) to a tribal member, unless extenuating circumstances prevent collection.
 - C. If per-capita or tribal distribution deduction is not possible, a final "intent to suspend service" warning may be provided to the delinquent user.
 - D. If payment is not received within ten (10) business days of delivery of suspension notice, service may be suspended until such time that payment is made.
 - E. In the event of a discrepancy or disagreement regarding the amount owed, notice can be made to the Pechanga Water Board which will have the effect of

suspending these procedures until such discrepancy is resolved. In this event the Board shall address such discrepancy at its next official meeting. The water user shall have the option of addressing the Board at this time either in person or writing.

- F. In any case of disagreement the water user shall have the right to appeal to the General Membership. Appeals brought by tribal members shall be placed on an agenda for a General Membership hearing and determination.
3. Delinquent service charges from non-Pechanga Tribal Members are subject to the following procedures:
 - A. First, a written notice shall be provided to the delinquent user informing them of the amount of immediate payment due and the subsequent consequences of failure to pay, outlined herein.
 - B. If payment is not received within ten (10) business days of the notice, an “intent to terminate service” warning will be provided to delinquent user.
 - C. If payment is not received within ten (10) business days of delivery of the “intent to terminate service” letter, water service may be terminated at the discretion of the Board.
 - D. The Board may require users who have their service terminated to pay a reconnection fee in addition to the above fees as well as all outstanding water debt owed to the Band. Reconnected water users are subject to automatic per capita deductions for their monthly water bills.
 - E. In any case of disagreement by a non-member, such water user shall have the right to appeal as follows: Appeals brought by non-members shall be put before the General Membership in summary form; the General Membership shall determine on a case-by-case basis whether to grant a full hearing on any such appeal.

SECTION 10 - CONSERVATION/SHORTAGES

- a. During the period of any actual or threatened shortage of water supply to the Pechanga Indian Reservation, the Board shall apportion the available supply among its service users, domestic and commercial, in the most reasonable and fair manner possible in the Board’s judgment. The Board shall apportion water supplies without discrimination or favoritism; except that preference may be given to such service as is essential to the life and health of the Band members.
- b. The Board shall be empowered to suspend temporarily the flow of water, when necessary, for the purpose of making repairs or improvements to the system. The repair or improvement work shall be done as quickly as possible and the Board shall make every reasonable attempt to give advance notice to all affected service users.
- c. Neither the Pechanga Band nor the Board shall be liable for unavoidable shortages of water, for interruption of service, insufficiency of water supply, or for any losses or damages resulting therefrom.

SECTION 11 - PRIVATE WELLS: SAFETY AND SANITATION

Landowners who have or are installing private wells on their land are expected and encouraged to act responsibly with regard to maintenance of the well and protection of the common aquifer. Pechanga Water Systems shall provide assistance to landowners in this regard and shall oversee drilling of new wells for safety purposes.

- a. The drilling of private wells is permitted within the exterior boundaries of the Pechanga Indian Reservation by express permission of the Board without bias or prejudice.
- b. All private wells are subject to objective health, safety, and efficiency policies which the Board may require for the protection of the aquifer, up to and including closure when deemed necessary in the Board's determination, using generally accepted scientific standards.
- c. All private wells are subject to inspection by the Board or its representatives at any reasonable time, and all property owners shall allow free access to any wells for such purposes.
- d. Because all water supplies on the Pechanga Reservation are connected, and water contamination or inefficient use in one area may affect the entire water supply, any well that is deemed exceedingly unsafe, inefficient or otherwise a hazard to the Band's supply may be disconnected by the Board. In such cases, it is the Board's discretion, based upon generally accepted scientific safety standards, to decide if and how such a well or wells can be brought into compliance or temporarily or permanently capped.
- e. Neither the Board nor the Band are responsible for losses or damages caused in the event a private well is deemed non-compliant with the above policies. However, in the interests of health and safety, any household which may lose its domestic water supply due to the disconnection of an unsafe or contaminated private well may receive a minimal emergency or temporary supply of safe domestic water until such time that a permanent resolution can be found.
- f. The above policy applies to both fee land and allotted lands.
- g. This section is not intended to infringe on other rights of the landowner.

SECTION 12 - DUE PROCESS

All persons or entities having a concern or dispute regarding this ordinance or any action of the Board or Pechanga Water Systems may appeal to the Board for formal redress at any official meeting. Final Board decisions can be appealed to the General Membership of the Band.

SECTION 13 - SOVEREIGN IMMUNITY

Pechanga Water Systems is a subdivision of the Pechanga Tribal Government, and as such, Pechanga Water Systems and its officials are entitled to the sovereign immunity of the Pechanga Band in all matters. The Board of Directors shall be empowered to waive its own sovereign immunity, but not that of the Band or any other entity. No waiver of sovereign immunity by Pechanga Water Systems shall be valid unless:

- a. it is clearly and expressly made in writing;
- b. it is executed under the authority and with the prior approval of the Board of Directors; and
- c. it is approved by the Pechanga Office of General Counsel or other legal counsel approved by Tribal Council.

SECTION 14 - AMENDMENTS AND REGULATIONS

Once enacted, this ordinance may only be amended by the General Membership of the Pechanga Band of Luiseno Mission Indians. The Board may enact regulations subordinate to this Ordinance which regulations shall be legally binding for the Pechanga Water Systems provided they:

- a. do not conflict with any provision of this Ordinance; and
- b. have not been overturned or preempted by action of the Pechanga Tribal Council or Pechanga General Membership or any tribal court of competent jurisdiction duly established under the laws and authority of the Band.

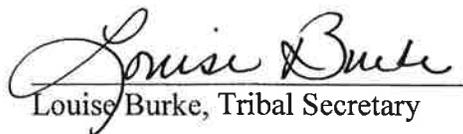
SECTION 15 – SEVERABILITY

If any provision of this Ordinance is found by a court or agency of competent jurisdiction to be illegal, invalid or unenforceable, such provision shall be severable and the remainder of the Ordinance shall remain in full force and effect.

CERTIFICATION

The undersigned, the duly authorized Secretary of the Temecula Band of Luiseno Mission Indians, sometimes referred to as the Pechanga Band of Mission Indians, federally recognized as the Pechanga Band of Luiseno Mission Indians of the Pechanga Indian Reservation, does hereby certify that the foregoing Water Systems Bylaws were adopted at a duly called General Meeting held on September 30, 2012, by a vote of 72 "for", 14 "against", and 2 "abstentions", and have not been rescinded or amended in any way.

Dated: October 4, 2012



Louise Burke, Tribal Secretary