

**Dry Creek Rancheria  
Band of Pomo Indians**

Government Code

**TITLE 12. BUILDING AND SAFETY CODE**

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**SECTION 1. Title**

This Ordinance shall be known and cited as the "**Dry Creek Rancheria Building and Safety Code**" (hereinafter the "Building and Safety Code" or "Code").

**SECTION 2. Statement of Purpose**

(A) The purpose of this Code is to provide for the regulation of construction, repair, maintenance, expansion, modification, or renovation of all buildings and other structures on the Rancheria, in order to ensure that all such activities are conducted in a safe manner to protect persons, property, and the Tribe, and to provide for the regulation and oversight of workplace safety and personal safety on the Rancheria.

(B) The Tribe has determined that it is in the Tribe's best interest to adopt this Building and Safety Code to apply to all areas of the Rancheria.

**SECTION 3. Definitions**

(A) "Board of Directors" means the body elected by the Tribal Council from its membership and in which all powers and responsibilities that are vested in the Tribal Council may be delegated pursuant to Article IV of the Tribe's Articles of Association.

(B) "Building Department" means the Dry Creek Rancheria Building Department.

(C) "Building Official" means the Person who heads the Building Department and is responsible for implementing all procedures and requirements of the applicable Tribal building codes, as provided in this Code.

(D) "CGCC" means the California Gambling Control Commission.

(E) "Code" means this Ordinance adopting the Dry Creek Rancheria Building and Safety Code.

(F) "Compact" means the Tribal-State Compact Between the State of California and the Dry Creek Rancheria Band of Pomo Indians, as it may be amended from time to time.

(G) "Gaming Commission" means the Dry Creek Gaming Commission.

(H) "Gaming Facility" means any building in which Class III gaming activities (as such term is defined under Section 2703 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703) or gaming operations occur, or in which the business records, receipts, or other funds of such 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 a gaming operation. A "gaming operation" means the business enterprise that offers and operates Class III gaming activities as authorized under the Compact.

(I) "Gaming Ordinance" means an Ordinance of the Dry Creek Band of Pomo Indians Authorizing and Regulating Gaming on the Dry Creek Indian Rancheria, as it may be amended from time to time.

(J) "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

(K) "NIGC" means the National Indian Gaming Commission.

(L) "Person" includes but is not limited to any individual, firm, limited liability company, partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, the State of California, any county, city and county, municipality, district, or other political subdivision of the State of California, joint powers authority, another state or its political subdivisions, the Tribe, or any of its political subdivisions, instrumentalities, agencies, or departments, or any other group or combination acting as a unit.

(M) "Rancheria" means the Indian lands near Geyserville, California, legally held by the United States of America in trust for the benefit of the Tribe and commonly known as the Dry Creek Rancheria and other Indian lands over which the Tribe may exercise jurisdiction.

(N) "Risk Management Department" means the Dry Creek Rancheria Risk Management Department.

(O) "Risk Management Director" means the Dry Creek Rancheria Risk Management Director.

(P) "Tribal Council" means the governing body of the Tribe, as set forth in Article IV of the Tribe's Articles of Association.

(Q) "Tribe" means the Dry Creek Rancheria Band of Pomo Indians, a federally recognized Indian tribe.

#### **SECTION 4. Establishment of Building Department and Office of Building Official**

(A) There is hereby established the Dry Creek Rancheria Building Department.

(B) There is hereby established an office of the Dry Creek Rancheria Building Official to head the Building Department and exercise the powers set forth herein. During any period in which the office of Building Official is not occupied, the Board of Directors or its designee will serve as the Building Official as to the Rancheria, and the Gaming Commission or its designee will serve as the Building Official as to the Gaming Facility.

(C) The Building Official shall report to the Board of Directors or its designee on a regular basis regarding building code matters on the Rancheria and shall report to the Gaming Commission and Board of Directors, or its designee, on a regular basis regarding building code matters at the Gaming Facility or any other matter under the jurisdiction of the Gaming Commission. The Building Official may work on a full-time, part-time, or consultant basis as the Board of Directors shall determine.

Candidates for the position must be qualified as a "Certified Building Official" under the requirements of the Council of American Building Officials, must have a minimum of two years experience as a building official with a governmental entity, and must submit to the Tribe, on an annual basis, a report indicating proof of compliance with all applicable Tribal requirements for continuing education. Credentials of experts providing other services to the Building Department shall include certification in their primary job functions by the International Council of Building Officials ("ICBO"), or where the ICBO is not applicable, proof of ongoing compliance with all applicable certification and/or continuing education requirements of the Tribe for their position.

#### **SECTION 5. Establishment of Risk Management Department and Office of Risk Management Director**

(A) There is hereby established the Dry Creek Rancheria Risk Management Department.

(B) There is hereby established an office of the Dry Creek Rancheria Risk Management Director to head the Risk Management Department and exercise the powers set forth herein. During any period in which the office of Risk Management Director is not occupied, the Board of Directors or its designee will serve as the Risk Management Director as to the Rancheria, and the Gaming Commission or its designee will serve as the Risk Management Director as to the Gaming Facility.

(C) The Risk Management Director shall report to the Board of Directors or its designee on a regular basis regarding building code matters on the Rancheria and shall report to the Gaming Commission and Board of Directors, or its designee, on a regular basis regarding building code matters at the Gaming Facility or any other matter under the jurisdiction of the Gaming Commission. The Risk Management Director may work on a full-time, part-time, or consultant basis as the Board of Directors shall determine. Qualifications for the position of Risk Management Director shall be determined by the Board of Directors in its sole discretion.

#### **SECTION 6. Adoption of Rancheria Building Code and Incorporation of Applicable Code Standards**

To accomplish the objectives of the Tribe, the Tribe hereby adopts as the Dry Creek Rancheria Building Code to apply in all areas of the Rancheria, consisting of the standards contained and adhered to by the County of Sonoma and the Uniform Building Code, 1997 Edition, Volumes 1, 2, and 3, published by the International Conference of Building Officials, and all standards incorporated therein and/or modified thereby together with the 1997 Uniform Mechanical Code, 1997 Uniform Plumbing Code, 1997 National Electrical Code including but not limited to the Structural Welding Code ANSI/AWS D1.1 (1998), 1997 Uniform Fire Code, the National Fire Protection Association 72 Fire Alarm (1996) and 13 Sprinkler Systems

(1997) (collectively, hereinafter, "UBC," and together with the Highrise Standard, the "Applicable Codes"); provided, however, that the Tribe, acting through the Board of Directors or its designee, shall have the authority to require design consultants and construction contractors to design and build to more stringent standards as the Tribe may impose.

#### **SECTION 7. Promulgation of Building and Safety Regulations**

Each of the Building Department and Risk Management Departments shall have the authority to implement this Code and to promulgate regulations respecting its area of responsibility to carry out its provisions. Any regulation promulgated by the Building Code Department or Risk Management Department must be approved by the Board of Directors, which shall have authority to approve, reject, modify, or rescind any regulation adopted pursuant to this Code.

#### **SECTION 8. Certificates, Licenses, and Permits**

(A) Prior to the occupancy of any building on the Rancheria, the Tribe shall issue to the owner a certificate issued by the Building Official attesting that the construction or improvements of the building comply with the Applicable Codes; provided, however, that the Gaming Commission shall issue such certificates, including certificates of occupancy, for the Gaming Facility.

(B) A Tribal member or Tribal official may make written application to the Building Official or Risk Management Director for waiver of a permit required under this Code or any regulations promulgated pursuant to this Code. The Building Official or Risk Management Director may recommend waiver of any permit requirement to the Board of Directors or its designee, but only after a finding that no potential harm to persons or property would result from granting of the waiver.

#### **SECTION 9. Fees**

Fees shall be assessed in accordance with provisions to be established by the Board of Directors or its designee, and open for inspection at the Tribal administration offices by Tribal members, their contractors and contractors hired by the Tribe. The Board of Directors or its designee shall have the authority to waive any fees required under this Section upon its determination that the fee would result in a significant hardship.

#### **SECTION 10. Workers' Compensation Requirements**

No permit will be issued under this Code unless and until a certificate of Workers' Compensation coverage is submitted to the Building Official and the Risk Management Director proving that the contractor(s) responsible for completion of the work granted by the permit has Workers' Compensation coverage.

#### **SECTION 11. Responsibility Under Other Applicable Law**

Nothing in this Code shall relieve the Tribe, any Tribal member, or any other Person from any responsibility or obligation under any other applicable Tribal or federal laws or regulations for the regulation or protection of environmental or cultural resources or persons with disabilities.

#### **SECTION 12. Enforcement**

The Building Official and Risk Management Director shall have responsibility, respectively, for monitoring, respectively, all planned or ongoing construction on the Reservation and all workplace safety and personal safety on the Reservation to ensure compliance with this Code, and shall investigate any complaint submitted to the Building Department or Risk Management Director relative to any alleged violation of this Code. If the Building Official or Risk Management Director concludes that a provision of this Code has been violated, he or she shall inform the person allegedly in violation of the concern, including the specific provision(s) of the Applicable Codes, and remedial action requested, with notice of same to the Board of Directors or its designee. An alleged violation of any provision of this Code by a Tribal member or Governmental entity shall be resolved by the Board of Directors.

#### **SECTION 13. Notice of Violation; Penalties**

If the Board of Directors or its designee concurs with the Building Official's or Risk Management Director's conclusion that a person has violated a provision of this Code and failed to take reasonable corrective measures, the Building Official or Risk Management Director may issue the contractor a Notice of Violation. An alleged violation of any provision of this by a Tribal member or governmental entity shall not be the subject of a Notice of Violation or other penalty, but shall be resolved by the Board of Directors or its designee. Any condition that is the subject of a Notice of Violation and is not corrected within five (5) calendar days after the date of the Notice of Violation may be assessed by the Board of Directors an initial fine of \$1,000.00 for each violation cited therein. Any conditions remaining uncorrected ten (10) days after the date of a Notice of Violation may, in addition, be subject to a daily fine of \$250.00 for each day the violation continues after such tenth (10th) calendar day. The Building Official and Risk Management Director shall notify the Board of Directors of any uncured violations and the Board of Directors alone may determine whether to impose penalties.

#### **SECTION 14. Appeal Process**

Any person cited with a Notice of Violation shall have the right to file an appeal with the Board of Directors opposing the notice and any related penalties. Any such

appeal must be submitted in writing within fifteen (15) days after the date of such Notice of Violation. Appellants shall be allowed to present evidence in their defense in a hearing before the Board of Directors. The Board of Directors shall render a final decision with respect to a Notice of Violation within fifteen (15) calendar days of the date of such hearing, either dismissing the Notice of Violation and any related penalties or declaring that such notice shall remain in effect and that related penalties, if any, shall remain payable. The process described in this Section is within the exclusive jurisdiction of the Tribal government and its agencies and officers and is the sole recourse for any person opposing a Notice of Violation or any penalties related thereto.

#### **SECTION 15. Dry Creek Gaming Commission Powers and Duties Unchanged**

(A) Nothing in this Code shall diminish, expand upon, or otherwise affect the authority of the Gaming Commission to carry out its duties and responsibilities under the Gaming Ordinance, IGRA, the Compact, or any applicable regulation of the NIGC or the CGCC, including the authority to investigate any reported violation of the Compact regarding public health and safety.

(B) The Building Official and Risk Management Director shall be available at the request of the Gaming Commission to assist with building inspections and oversight of compliance with the Applicable Codes, the Gaming Ordinance, IGRA, the Compact, or any applicable regulation of the NIGC or the CGCC. All inspections of the Gaming Facility shall be conducted under the direction of the Gaming Commission.

#### **SECTION 16. Non-Conflicting Provisions**

Any other Tribal laws, ordinances, and regulations, or any portions thereof, which are in conflict with the provisions of this Code (other than the Gaming Ordinance and the Articles of Association) are hereby repealed; provided, however, that nothing in this Code is intended to be or may be construed or interpreted so as to constitute a violation of any existing legal, contractual, or other obligation of the Tribe.

#### **SECTION 17. Severability**

If any section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Code. The Tribe hereby declares that it would have passed this Code, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases might be declared unconstitutional.

#### **SECTION 18. Effective Date**

This Code and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect on the date of its final adoption.