

**Dry Creek Rancheria
Band of Pomo Indians**

Government Code

(Recodified as previously adopted by the Tribe on 1/19/98)

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CHAPTER 1.

WHEREAS, There have in the past been incidents in which Tribal members and other persons have intentionally and unlawfully interfered with the performance by Tribal officers and employees of their duties, and with the conduct of legitimate Tribal business, and some of those incidents have involved breaches of the peace; and

WHEREAS, It is necessary to the preservation of the peace and the protection of the Tribe's people, property, governmental institutions, Rancheria territory, and business enterprises that the Tribe take legislative action to minimize the threat of further unlawful conduct and to provide for appropriate sanctions for such conduct; and

WHEREAS, By virtue of the Tribe's inherent sovereign authority it has the power and the right to protect the peace, safety, and integrity of the Tribe's people, property, governmental institution, Rancheria territory, and business enterprises by the enactment and enforcement of legislation; and

WHEREAS, Pursuant to Article IV of the Tribe's Articles of Association the governing body of the Tribe is its Tribal Council, which may delegate powers to the Board of Directors; and

WHEREAS, Pursuant to Article VII of the Tribe's Articles of Association the Board of Directors shall take such actions as are necessary to carry into effect the ordinances, resolutions, or other directions of the Tribal Council; and

WHEREAS, Public Law 280, 28 U.S.C. § 1360(c), allows the Tribe to enforce tribal law in state court through civil actions;

SECTION 1. Disruption of Tribal Meetings and Business

No person shall, through threats, intimidation, harassment, violence, occupation, blockade, or other unlawful means, hinder, prevent, disrupt, or interfere with the conduct of public, private, or governmental business including, but not limited to, business conducted at public meetings for the consideration of tribal issues, meetings of the Tribal Council, Board of Directors, or Gaming Commission, meetings of Tribal officials, Tribal elections, or the operation of Tribal enterprises.

SECTION 2. Trespass to Obstruct or Injure Property or Business

No person shall enter, or remain in or upon, any building or land, including roadways, within the exterior boundaries of the Dry Creek Rancheria, or upon lands held by the United States in trust for the benefit of the Tribe, for the purpose of, or with the effect of, damaging real or personal property, interfering with the right of possession or other property rights of any person or entity, or interfering with, obstructing, or injuring any business, occupation, or activity conducted by the Tribe, or by any other entity or person in lawful possession of property pursuant to Tribal law.

SECTION 3. Damage to Property or Business

No person shall damage any real or personal property belonging to the Tribe, or to any business owned or operated by the Tribe, or to any person or entity authorized by the Tribe to conduct business on the Rancheria, or to any other person or entity in lawful possession of property pursuant to Tribal law.

SECTION 4. Obstruction of Free Passage

No person shall, on any land within the exterior boundaries of the Dry Creek Rancheria, or on land held in trust by the United State for the benefit of the Tribe, unlawfully obstruct the free movement of any person or vehicle on any street, sidewalk, or any other place open to the public under Tribal law, or on any other property to which such person has a right of access under Tribal law.

SECTION 5. Nuisance Per Se

Violation of this Ordinance shall constitute, among other things, a private nuisance per se, and the Tribe shall be deemed the injured party.

SECTION 6. Tribal Enforcement

(A) This Ordinance is a codification of existing Tribal law and custom and does not create new classes of offenses. Enactment of this Ordinance shall not be deemed to

prevent the Tribe from prosecuting civil actions upon other legal bases, including those based upon Tribal custom, other Tribal enactments, or existing state or federal law, regardless of whether the date of the offense was before or after the enactment of this Ordinance.

(B) The enactment of this Ordinance shall not be deemed to be a limitation upon the ability of the Tribe to enforce its legal rights, or to seek any additional remedies available to it, pursuant to any legal theory. Any Tribal offense, including but not limited to those set for this Ordinance, and any other civil cause of action under tribal, state, or federal law, may be enforced through a civil action or actions filed in the name of the Tribe in any California State, Federal, or Tribal court of competent jurisdiction. Any such action may seek any type of relief available in the court in which any such action is filed including, but not limited to, abatement, injunctive relief, compensatory and punitive damages, restitution, and declaratory relief.

(C) Neither this Ordinance nor the filing of a civil action by the Tribe in any forum shall be deemed to be a waiver of the sovereign immunity of the Tribe or its officers for any purpose.

(D) Whether or not based upon this Ordinance, any judgment obtained by the Tribe against any member or other person shall, among other means of enforcement, be enforceable as an offset against any entitlement that person may ever have to Tribal funds from any source or for any purpose, including but not limited to per capita distributions, gaming winnings, salary, wages, or other compensation.

(E) This Ordinance shall be interpreted and enforced according to:

- (1) Such Tribal law as may be established by reference to official acts of the governing body of the Tribe and such custom of the Dry Creek Rancheria Band of Pomo Indians as may be established by competent expert testimony; and
- (2) The common law and statutes of California made applicable to Indian tribes and tribal trust lands by Public Law 280 or other applicable law; and
- (3) Federal law.

(F) This Ordinance shall not be enforced in a manner which abridges the rights of any person under the Indian Civil Rights Act.

(G) The Tribal Council may institute litigation to enforce this Ordinance through Tribal Council resolution directing the Tribe's attorney to take appropriate legal action. In the interest of expediting necessary legal action pursuant to this Ordinance, the Tribal Council hereby also authorizes, directs, and orders the Board of Directors, acting through the Tribal Chair to:

- (1) Take all necessary and lawful steps to determine the identities of persons whom, based upon credible evidence, the Board of Directors believes to be in violation of this Ordinance;
- (2) In consultation with the Tribe's legal counsel determine which, if any, of those persons should be subject to legal action by the Tribe for such violations;
- (3) Take all necessary steps to cause the Tribe's legal counsel to file appropriate litigation in the name of the Tribe against such persons in whatever legal forum is deemed by the Board of Directors to be best suited to the case, seeking abatement, injunctive relief, damages, and any other form of relief available; and
- (4) Do all other things reasonably necessary to achieve the purposes of this Ordinance.

(H) The Tribal Council hereby authorizes and directs the Tribe's attorney to do all things necessary to implement this Ordinance as directed by the Tribal Council or the Board of Directors, acting through the Tribal Chair.

(I) The Tribal Council hereby authorizes the Board of Directors to spend such Tribal funds as may be necessary for the expenses of accomplishing the purposes of this Ordinance, including, but not limited to court costs, attorney's fees, costs of investigation, and other related expenses. The Tribal Chair shall provide to the Tribal Council a written litigation report, including an accounting for all funds expended for such purposes, at each Tribal Council meeting, and in any event, not less than every six months.

(J) The Tribal Chair, in consultation with the Board of Directors, shall provide all necessary day to day direction to the Tribe's attorney in the conduct of any litigation filed pursuant to this Ordinance, except that settlement or dismissal of any such litigation shall require a resolution of the Board of Directors. Any settlement agreement shall be in writing, and shall be presented to the Tribal Council for its information at the next Tribal Council meeting after the settlement agreement is signed.

(K) The Tribal Council reserves to itself the right to amend or rescind this Ordinance at any time, and to provide to the Board of Directors, the Tribal Chair, and the Tribe's attorney, specific binding direction with respect to any litigation instituted hereunder.