



PECHANGA INDIAN RESERVATION
Temecula Band of Luiseño Mission Indians

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Tribal Chairman:
Mark Macarro

Tribal Council:
Raymond J. Basquez Jr.
Catalina R. Chacon
Marc Luker
Robert "R.J." Munoa
Russell "Butch" Murphy
Michael A. Vasquez

Tribal Secretary:
Louise Burke

Tribal Treasurer:
Robyn Delfino

**RESOLUTION OF THE
PECHANGA BAND OF LUISEÑO INDIANS
PECHANGA INDIAN RESERVATION**

RESOLUTION# 180128-05b

PURPOSE: Enactment of the Residential Building and Fire Ordinance.

WHEREAS: The Temecula Band of Luiseño Indians, sometimes referred to as the Pechanga Band of Luiseño Indians, federally recognized as the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation (hereafter referred to as the "Band"), is a sovereign federally recognized Indian Tribe; and

WHEREAS: The General Membership of the Band is the governing body of the Pechanga Indian Reservation and is governed by the Band's Constitution and Bylaws; and

WHEREAS: The Band is a customs and traditions tribe and desires to promote and protect its customs and traditions, rights, interests, common welfare, and enhance services to its members; and

WHEREAS: The Band is entitled to exercise all rights afforded to it under applicable law; and

WHEREAS: The Band desires to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations within the Pechanga Indian Reservation, as set forth in the Residential Building and Fire Ordinance (attached hereto as Exhibit A).

NOW, THEREFORE BE IT RESOLVED THAT: It has been determined by the General Membership of the Pechanga Band of Luiseño Indians that it is in the best interest of the Band to enact the Residential Building and Fire Ordinance (attached hereto as Exhibit A).


BE IT FURTHER RESOLVED THAT: The General Membership of the Pechanga Band of Luiseño Indians, as the lawful sovereign authority of the Band, hereby enacts the Residential Building and Fire Ordinance (attached hereto as Exhibit A).

BE IT FINALLY RESOLVED THAT: This Resolution and the authorizations contained herein shall remain valid and continue in effect year-after-year until amended, modified, or rescinded by the General Membership.

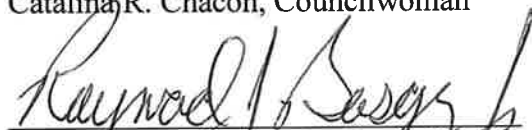
CERTIFICATION


We, the undersigned, the duly elected officers of the Temecula Band of Luiseño Indians, sometimes referred to as the Pechanga Band of Luiseño Indians, federally recognized as the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation, do hereby certify that the foregoing Resolution (No. 180128-05b) was adopted at a duly noticed General Membership Meeting held on the 28th day of January, 2018 by a vote of 86 yes, 16 no, and 1 abstaining, and that such Resolution has not been rescinded or amended in any way.

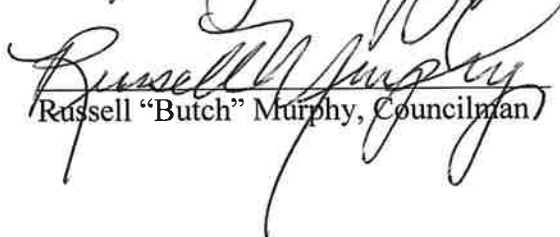

Mark Macarro, Tribal Chairman


Catalina R. Chacon, Councilwoman


Michael A. Vasquez, Councilman


Raymond J. Basquez, Jr., Councilman


Robert "R.J." Munoa, Councilman


Russell "Butch" Murphy, Councilman


Marc Luker, Councilman

Exhibit A
to General Membership Resolution No. 180128-05b

Residential Building and Fire Ordinance

PECHANGA BAND OF LUISEÑO INDIANS CODE OF ORDINANCES

TITLE 8

BUILDING & FIRE SAFETY CODE

DIVISION 3

RESIDENTIAL AREAS

ARTICLE 1

RESIDENTIAL BUILDING AND FIRE ORDINANCE

1.1 Title. This Ordinance shall be known and cited as the Residential Building and Fire Ordinance (“Ordinance”), Pechanga Code of Ordinances Title 8, Division 3, Article 1.

1.2 Authority & Enactment. This Ordinance was enacted by the Pechanga General Membership, the authorized governing body of the Pechanga Band of Luiseño Indians, as evidenced by General Membership Resolution No. 180128-05b.

1.3 Purpose. The purpose of this Ordinance is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations within the Pechanga Indian Reservation.

1.4 Scope. This Ordinance shall apply to all construction, alteration, movement, enlargement, replacement, removal and demolition of Residential Building or any appurtenances regardless of whether connected or attached to such Residential Buildings located within the Reservation for which a home loan or other form of tribal-funding has been provided by the Band. This Ordinance shall apply on a voluntary basis for tribal members constructing or altering a Residential Building using funds other than those provided through tribal-funded programs. However, all tribal members are strongly encouraged to comply with the terms of this Ordinance to ensure the health, welfare, and safety of themselves, their families, and the Reservation.

1.5 Definitions. As used in this Ordinance, the capitalized terms set forth below shall have the following meanings as related to this Ordinance:

(a) Applicable Codes. Applicable Codes means those codes identified in Sections 1.7 and 1.8.

(b) Applicant. Applicant means any person who submits a residential building or fire permit application or variance request for the purpose of obtaining approval under this Ordinance.

(c) Band. Band means the Pechanga Band of Luiseño Indians, sometimes referred to as the Temecula Band of Luiseño Indians, federally recognized as the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation.

(d) Fire Chief. Fire Chief means the chief officer of the Pechanga Fire Department or the Fire Chief's designee.

(e) Fire Code Official. Fire Code Official means the Fire Chief, Fire Marshal, or the Fire Chief's designee charged with the administration and enforcement of this Ordinance.

(f) Permit. Permit means an official document or certificate issued by the authority having jurisdiction that authorizes performance of a specific activity regulated by this Ordinance.

(g) Project. Project means the construction of any Residential Building pursuant to this Ordinance.

(h) Reservation. Reservation means all lands within the limits of the Band's Reservation or land over which the Band exercises governmental power, and that is held in trust by the United States for the benefit of the Band.

(i) Residential. The provisions of the International Residential Code for One and Two family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.

(j) Residential Building. Residential Building means any structure, either temporary or permanent, having a roof and used or built for shelter, or the enclosure of person, animals, or property of any kind, which is used for sleeping purposes.

(k) Residential Building Official. Residential Building Official means the officer or other designated authority charged with the administration and enforcement of this Ordinance for all Residential Buildings developed hereunder, or a duly authorized representative as approved by the Tribal Council.

(l) Tribal Council. Tribal Council means the duly elected body of the Band pursuant to the Constitution and which is the governmental entity, or its designee, that has the statutory authority to perform the duties and responsibilities required pursuant to this Ordinance. The Tribal Council has the statutory authority to delegate some or all of its statutory authority to the appropriate tribal entities or individuals, as may be determined by the Tribal Council.

(m) Variance. Variance means a modification when a special condition exists that makes strict compliance with this Ordinance impractical, or when an alternative materials and methods design that complies with the intent of this Ordinance, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Applicable Codes in quality, strength, effectiveness, fire resistance, durability, and safety. The resulting condition must be in conformance with the spirit and purpose of the code provisions involved and that such modification does not lessen fire protection, structural integrity, or occupant safety.

1.6 Administration and Enforcement.

(a) Residential Building Official.

(1) The Residential Building Official is responsible for administering and enforcing the provisions of this Ordinance for the development of any Residential Buildings within the Reservation. The Residential Building Official shall have the authority to render interpretations of this Ordinance and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretation, policies, and procedures shall be in compliance with the intent and purpose of this Ordinance. Such policies and procedures shall not have the effect of waiving requirements provided for in this Ordinance.

(2) The Residential Building Official shall report to the Tribal Council on a regular basis regarding building and fire safety matters within the Reservation.

(3) The Residential Building Official must be qualified as a “Certified Building Official” under the requirements of the International Code Council (“ICC”) or equivalent as determined by the Tribal Council; must have a minimum of two (2) years’ experience as a building official, preferably with a governmental entity, and must submit to the Tribal Council, or its designee, on an triennial basis, a report indicating proof of compliance with all applicable requirements for continuing education and as required by the ICC for maintenance of certification. If the Residential Building Official is hired as a governmental employee of the Band, they shall be covered by the existing liability insurance coverage provided by the Band to employees during the course of their employment. If the Residential Building Official is retained as an independent contractor, they shall be responsible for providing their own liability insurance coverage as required by the terms of their individual contract with the Band.

(4) In accordance with and concurrence of the Tribal Council, deputies shall be appointed by the Residential Building Official for inspections, plans examiners, and other employees as needed to administer the provisions of this Ordinance. ICC certifications shall be required for the appointed deputies in the disciplines of expertise and included in the triennial report provided by the Residential Building Official.

(b) Fire Code Official.

(1) The Fire Code Official is responsible for administering and enforcing the provisions of this Ordinance for the development, maintenance, and use of Residential Buildings, including access for the Pechanga Fire Department to land to perform activities related to the prevention, suppression, and extinguishment of fires; access to a sufficient water supply, storage, handling, and use of hazardous materials; installation, modification, and maintenance of fire protection systems, and construction; maintenance of means of egress; elimination of fire and safety hazards on land, in buildings and structures including those under construction; investigation of cause, origin, and circumstances of fire and unauthorized releases of hazardous materials within the Reservation.

(2) The Fire Chief or Fire Code Official in charge at the scene of a fire or other emergency involving the protection of life or property or any part thereof, shall have the authority

to direct and perform emergency operations, investigate reported or suspected fires or other hazardous conditions, take reasonable action to prevent or mitigate any hazardous conditions, enforce provisions of this Ordinance, and prohibit or remove any person, vehicle, vessel, or thing that could impede or interfere with Pechanga Fire Department operations.

(c) Development Plan Consistency Determination.

(1) In addition to other permits and approvals by the Band, any permit required by this Ordinance shall be secured prior to the development of any lot or modification of any existing Residential Building on the Reservation and as specified within the Ordinance.

(2) A Plan Consistency Determination Certificate must be secured, prior to the initiation, modification, or expansion of use or development.

(3) A Plan Consistency Determination certifies that a proposed development conforms to all current requirements of applicable tribal consistency regulations and, if applicable, the terms and conditions of any previously approved development permit.

(4) A Plan Consistency Determination is required whenever a building permit is required, and must be secured prior to the issuance of the building permit. A Plan Consistency Determination Certificate shall be applied for with the application for a building permit.

(5) A Plan Consistency Determination is required when deemed necessary by the Fire Code Official to evaluate activities requiring an operational or construction fire permit under this Ordinance

(d) Building Permit.

(1) A building permit is required by any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a Residential Building, or to erect, install, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated pursuant to the standards adopted in Section 1.7.

(2) Any Project on the Reservation regulated hereunder that is found to be in violation of this Ordinance shall be issued a stop order immediately and may be subject to applicable penalties if a building permit is not secured in a timely manner, pursuant to Sections 1.16-1.20 of this Ordinance.

(e) Occupancy Certificate.

(1) No Residential Building subject to the provisions of this Ordinance shall be occupied or used until the Residential Building Official has issued a Certificate of Occupancy to the owner or their authorized agent. Within five (5) days after notification that the dwelling or Building is ready for occupancy, the Residential Building Official shall make a final inspection thereof, and if it is found to be in conformity with the provisions of this Ordinance, shall issue the owner or their agent a Certificate of Occupancy.

(2) Prior to the Certificate of Occupancy being issued, two (2) sets of as-built-drawings shall be filed with the Residential Building Official, with a certification by the contractor that all work has been done in accordance with the requirements of the relevant Permit. If all conditions have been met, a Certificate of Occupancy shall be issued within ten (10) business days after the final inspection is completed.

(f) Fire Permit. A fire permit is required by any owner or authorized agent who intends to construct a Project, or install or modify systems and equipment that are regulated by this Ordinance, or to cause any such work to be performed.

(i) Operational Fire Permit. An operational permit allows the Applicant construct a Project requiring a permit by this Ordinance for a prescribed period, or until renewed or revoked.

(ii) Construction Fire Permit. A construction fire permit allows the Applicant to install or modify systems and equipment as permitted by this Ordinance.

(2) Any Project on the Reservation regulated hereunder that is found to be in violation of this Ordinance shall be issued a stop order immediately, and may be subject to fines if a fire permit is not secured in a timely manner, or if an activity prompts an emergency response, pursuant to Sections 1.16-1.20 of this Ordinance.

1.7 Applicable Codes. To accomplish the objectives of this Ordinance, the Band hereby adopts the following codes, to apply to all Residential Buildings located within the Reservation being constructed using home loan funds provided by the Band: the latest effective edition of the International Residential Code, Uniform Plumbing Code, International Wildland Urban Interface Code and Uniform Mechanical Code adopted by reference within Section 1.8, and as amended within Section 1.9 (collectively, hereinafter, the “Applicable Codes”); provided, however, that the Tribal Council shall have the authority to require design consultants and construction contractors to design and build to more stringent standards as the Band may impose. Nothing in this section shall be deemed to waive the sovereign immunity of the Band or any of its enterprises, officers, agents or employees, nor does the adoption of the referenced codes require the Band to comply with any laws to which it would not ordinarily be subject.

1.8 Applicable Codes Adopted by Reference. The following model codes are hereby adopted by reference, subject to the amendments identified in Section 1.9.

(a) Mechanical Code. The Uniform Mechanical Code, published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, CA 91761.

(b) Plumbing Code. The Uniform Plumbing Code, including Appendix C, published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, CA 91761.

(c) WUI Code. International Wildland Urban Interface Code, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.

(d) International Residential Code. International Residential Code, including appendix J, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.

(e) Fire Code. The International Fire Code, including Appendices published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, including amendments contained within applicable state and local codes.

1.9 Amendments to Applicable Codes.

(a) Mechanical Code. The following amendments are hereby made to the Uniform Mechanical Code:

(1) Add Section 101.1.1. The provision of this code shall not be deemed to nullify any provisions of law as to the Band's inherent sovereign authority, and the powers vested to it under the Constitution and Bylaws, adopted December 10, 1978, and as may be amended from time to time ("Constitution"). Nothing in this section shall be deemed to waive the sovereign immunity of the Band or any of its enterprises, officers, agents or employees, nor does the adoption of the referenced codes require the Band to comply with any laws to which it would not ordinarily be subject.

(b) Plumbing Code. The following amendments are hereby made to the Uniform Plumbing Code:

(1) Add Section 101.1.1. The provision of this code shall not be deemed to nullify any provisions of law as to the Band's inherent sovereign authority, and the powers vested to it under the Constitution and Bylaws, adopted December 10, 1978, and as may be amended from time to time ("Constitution"). Nothing in this section shall be deemed to waive the sovereign immunity of the Band or any of its enterprises, officers, agents or employees, nor does the adoption of the referenced codes require the Band to comply with any laws to which it would not ordinarily be subject.

(c) WUI Code. The following amendments are hereby made to the International Wildland Urban Interface Code:

(1) Section (A)102.2 Other laws. This section is to be deleted in its entirety and replaced with the following: The provision of this Code shall not be deemed to nullify any provisions of law as to the Band's inherent sovereign authority, and the powers vested to it under the Constitution and Bylaws, adopted December 10, 1978, and as may be amended from time to time ("Constitution"). Nothing in this section shall be deemed to waive the sovereign immunity of the Band or any of its enterprises, officers, agents or employees, nor does the adoption of the referenced codes require the Band to comply with any laws to which it would not ordinarily be subject.

(d) International Residential Code. The following amendments are hereby made to the International Residential Code:

(1) Section R102.2 Other laws. This section is to be deleted in its entirety and replaced with the following: The provision of this code shall not be deemed to nullify any provisions of law as to the Band's inherent sovereign authority, and the powers vested to it under the Constitution and Bylaws, adopted December 10, 1978, and as may be amended from time to time ("Constitution"). Nothing in this section shall be deemed to waive the sovereign immunity of the Band or any of its enterprises, officers, agents or employees, nor does the adoption of the referenced codes require the Band to comply with any laws to which it would not ordinarily be subject.

(2) Part V- Mechanical. This part is to be deleted in its entirety and replaced with Mechanical Code as referenced and amended within this article.

(3) Part VI- Fuel Gas. This part is to be deleted in its entirety and replaced with Chapter 12 of the Plumbing Code as referenced and amended within this article.

(4) Part VII- Plumbing Code. This part is to be deleted in its entirety and replaced with the Plumbing Code as referenced and amended within this article.

1.10 Minimum Permit Requirements.

(a) Filing of Applications. Applications for Residential Building permits and certifications shall be filed with the Residential Building Official on forms provided by the Band, and completed by the Applicant. Applications for fire permits shall be filed with the Fire Code Official on forms provided by the Pechanga Fire Department, and completed by the Applicant.

(b) Content of Application. Each application for a Residential Building or fire permit must include the following information:

(1) A description, including maps, plans, engineering reports, shop drawings, and other relevant data, of the proposed construction, operation, event, or project site and vicinity sufficient to determine whether the Project complies with the requirements of this Ordinance. The description shall include sufficient information concerning the existing use of the Residential Building, land, and water areas in the vicinity of the site of the proposed Project, to the extent that the Applicant can reasonably ascertain this information for the vicinity surrounding the project site. Construction documents shall be prepared by a registered design professional unless the Residential Building Official or Fire Code Official determines it is not necessary for the nature of the Project. All submitted information, including plans, maps, attachments, etc., must be submitted in a legible format.

(2) A legal description of the property upon which the work is to be performed.

(3) A dated signature by the property owner, or owners, authorizing the processing of the application, and written authorization, if applicable, for an authorized representative to bind the property owner in matters concerning the application. Permit applications for fire protection systems shall be signed by a licensed contractor.

(4) Such additional information that the Residential Building Official or Fire Code Official may determine is necessary to conclude whether the Project is consistent with tribal plans, this Ordinance, and other tribal laws and regulations.

(5) A statement of understanding that processing of applications which do not contain truthful and accurate information necessary to review the application may delay or result in the denial of the permit or revocation if the inaccurate information is discovered after approval or issuance of the permit.

(6) Construction documents shall contain sufficient information to reflect compliance with the applicable codes. At a minimum, construction documents to be submitted shall include plans and specifications as specified within the International Building Code.

(c) Licensed Contractor. If an Applicant/owner intends to perform the work subject to this Ordinance themselves or allow work to be performed by an unlicensed contractor, the Applicant/owner shall be personally liable for any and all damages to the Pechanga Band or any person injured as a result of the work performed.

1.11 Permit Application Review.

(a) The Residential Building Official or Fire Code Official shall review all applications for Residential Building and fire permits, and certificates for completeness and accuracy before the applications are accepted and officially filed as complete. If the application is determined to be incomplete, the Residential Building Official or Fire Code Official shall send notification of such finding to the Applicant, and shall indicate what is required for it to be considered complete by mail within thirty (30) calendar days after receipt of the application. If no response from the Applicant is received within thirty (30) days of Applicant notification, applications deemed incomplete shall be returned to the Applicant with any refundable fees that were paid and no further action shall be taken until the Applicant resubmits the application with the required information.

(b) During the application check, the Residential Building Official or Fire Code Official may refer copies of the application to any tribal department that may have relevant authority or expertise. Along with the referral, the Building Official or Fire Code Official shall include notification that responses from the departments must be received within ten (10) business days or the Residential Building Official/Fire Code Official will assume no response is forthcoming. The Residential Building Official or Fire Code Official is authorized to require owner or owner's authorized agent to provide, without charge to the Band, a technical opinion and report prepared by a qualified expert or design professional. This does not excuse the Applicant of any other requirements that include department and/or agency notifications.

(c) Where the Residential Building Official or Fire Code Official has determined that an application is incomplete, and where the Applicant believes that the information requested to complete the application is not required, the Applicant may request in writing that the Band schedule a meeting between the Residential Building Official or Fire Code Official and the Applicant within thirty (30) business days.

(d) Upon acceptance of an application as complete, the Residential Building Official or Fire Code Official shall complete a review within thirty (30) business days.

1.12 Residential Building and Fire Permit Approval.

(a) Occupancy Certificate and Building Permit Approval. Following the completion of the application review process, consistency certificates and Residential Building permits shall be issued by the Residential Building Official upon compliance with all general regulations applicable to the permitted Project and all conditions that may be imposed by the permit

(b) Fire Permit and Fire Clearance Approval. Following the completion of the fire permit application review process, consistency with fire permits and/or fire clearance shall be issued by the Fire Code Official upon compliance with all general regulations applicable to the permitted Project and all conditions that may be imposed by the permit. Issuance of a fire permit or fire clearance shall not be construed as approval of any violations of this Ordinance or any other applicable codes or ordinances, and shall not prohibit the Fire Code Official from requiring correction of errors.

(c) Other Applicable Rules, Policies and Standards. No Residential Building or fire permit shall be issued until the Residential Building Official or Fire Code Official has received written certification from applicable tribal departments that the Project for which the Permit is sought complies with all applicable laws, regulations, rules, policies, and standards of the Band.

1.13 Issuance of Residential Building and Fire Permits.

(a) Residential Building Permit Issuance. The issuance of a Residential Building permit authorizes the Applicant to undertake the proposed Project immediately upon the effective date of the permit, subject to all conditions or restrictions imposed by the permit; provided, however, that all other permits, plans, certificates, and other grants of approval are secured before the Project may commence. Issuance of a Residential Building permit shall not be construed as approval of any violations of this Ordinance or any other applicable codes or ordinances, and shall not prohibit the Residential Building Official from requiring correction of errors in documents or other data.

(b) Fire Permit Issuance. The issuance of a fire permit authorizes the Applicant to undertake the proposed Project immediately upon the effective date of the permit, subject to all conditions or restrictions imposed by the permit; provided, however, that all other permits, plans, certificates, and other grants of approval are secured before the Project may commence. Issuance of a fire permit shall not be construed as approval of any violations of this Ordinance or any other applicable codes or ordinances, and shall not prohibit the Fire Code Official from requiring correction of errors in documents or other data.

(c) Policy Changes. A change in the policies, procedures, codes, or ordinances that become effective after a Residential Building or fire permit has been issued shall not apply to the permit or to whom the permit was issued. The person must adhere to the conditions of the original permit, unless expired.

(d) Residential Building Permit Expirations. A Residential Building permit shall expire and become void at the time specified in such permit, when revoked, or if no time is specified, it shall expire if work has not commenced within 180 days of issuance, or if work is suspended or abandoned for a period of 180 days.

(e) Fire Permit Expirations.

(1) An operational fire permit shall expire and become void at the time specified in such permit, when revoked, or if no time is specified, at the expiration of one (1) year after issuance.

(2) A construction fire permit shall expire if work has not commenced within 180 days or work is suspended or abandoned for a period of 180 days.

(3) A new fire permit is required upon change in occupancy, operation, tenancy, or ownership.

1.14 Fees.

(a) Establishment of Fee Schedule. The Tribal Council may revise or change the fee schedule without amending this Ordinance. Costs will be, at a minimum, a set cost per square foot. Such a fee schedule will be available with each application.

(b) Processing Costs.

(1) Initial Fees and Deposit. Initial fees and an initial deposit shall be paid with submission of any application based on a set cost per square foot and the valuation of the Project. Fire department fees will be set based on the type of permit or number of hours required for service. Cost recovery fees for emergency response generated by a person(s) acting negligently, intentionally, or in violation of the law will be determined by Tribal Council.

(2) Processing Costs. The Applicant is responsible for all title company, engineering, cultural, environmental (including both the initial review, as well as costs associated with additional environmental assessment, if required), surveying, legal, and any other fees incurred in connection with the processing and approval of plans and maps including review and approval by an engineering firm as well as special inspections, and technical reports required to verify compliance with this Ordinance.

(3) Nonpayment of Fees. In the event that fees are not paid by an Applicant when due, no further processing of the Residential Building or fire permit application shall occur.

(c) Fees are Nonrefundable. All fees due under this Ordinance are nonrefundable, unless specified otherwise. An Applicant shall be reimbursed any funds paid that exceeds actual costs incurred by the Band under this Ordinance.

1.15 Variances.

(a) General. Requests for a variance shall be evaluated by the Fire Code Official and the Residential Building Official to ensure the proposed design, use, or operation satisfactorily

complies with the intent of the Applicable Codes. The Fire Code Official and Residential Building Official shall base their determination on technical justifications, and have the right to attach such conditions to variances as deemed necessary to further the purposes and objectives of this Ordinance. Additionally, the alternative means and methods being proposed will be evaluated to determine whether they are at least equivalent to that prescribed in the Applicable Codes in quality, strength, effectiveness, fire resistance, durability, and safety.

(b) Records. The Fire Code Official and Residential Building Official shall maintain a permanent record of all variance actions, including justification for their issuance.

(c) General Requirements. The Applicant shall provide the following information, in writing, with complete and adequate copies of the appropriate plans and documents necessary to clearly evaluate the Project and request for a variance:

- (1) Identify relevant Project information;
- (2) Identify the code section numbers or reference the specific requirement for which the variance or alternative means is requested;
- (3) Provide a background statement to identify, explain or otherwise detail the situation causing the request for a variance; and
- (4) Detail the alternative means and methods as part of the variance proposal and how they establish equivalency to those prescribed in the Applicable Codes.

(d) Engineering Evaluation. If the Fire Code Official or the Residential Building Official determines that a peer review or other engineering evaluation by a licensed professional engineer is necessary, it shall be performed and reported by a firm or individual that has been approved by the Fire Code Official and Residential Building Official at the expense of the Applicant.

(e) Submittal Process.

(1) At least two (2) copies of the variance proposal letter (or approved variance request form) and other supporting information is required. Submit one (1) copy to the Fire Code Official and one (1) copy to the Residential Building Official.

(2) Variance requests will be evaluated on a case-by-case basis. Approval of the request is based upon several factors, including, but not limited to:

- (i) The level of equivalency achieved;
- (ii) The effect of the variance and other related conditions or issues that will be beneficial or not beneficial to the best interests of the Band; and
- (iii) All evaluations will be performed in the context of the specific project being reviewed.

(3) If the variance proposal provides an equivalent level of protection considering all related conditions and issues pertaining to the project, the Fire Code Official and

Residential Building Official will issue a response letter granting approval of the variance. Such approval may be conditional upon implementation of additional requirements listed in the variance response letter that were not part of the original variance proposal. Approval is granted only for the specific project under review and the conditions for approval shall not be construed as applicable to any other project nor should any approval be considered to establish any precedent for future variance approvals.

(4) In the event that the variance proposal does not provide an equivalent level of protection, the request will be denied and a response letter (or variance request form with the “Not Approved” box marked) will be issued. Should the Applicant submit a different variance request for this Project or choose to revise and resubmit the previously denied request, additional variance review fees will apply. To facilitate the evaluation process, the Applicant should include any previously denied variance proposals when submitting a revised variance request.

(5) Upon completion of the evaluation, the variance response letter/form and a copy of the Applicant’s variance proposal will be electronically delivered to the Applicant, or available from the Fire Code Official or Residential Building Official. If evaluation of the variance proposal requires time and resources beyond the standard allotted for this activity, additional time and material fees may be applied. These additional fees must be paid when the Applicant picks up the variance response letter/form.

(6) The approved variance proposals and response letters/forms must be copied on the plans prior to permit approval. Applicants must retain a copy of the variance proposal and response at the Project site at all times. All approved variances require an inspection approval by the Fire Code Official or Residential Building Official.

1.16 Enforcement. The Residential Building Official and Fire Code Official shall administer, enforce, and render interpretations of all provisions of this Ordinance.

1.17 Right of Entry for Inspection. The Residential Building Official and the Fire Code Official may request to inspect any Residential Building subject to the terms of this Ordinance to ensure compliance with the Applicable Codes and any building and fire permit issued hereunder during normal business hours and with five (5) business days’ notice to the owner/occupant or their designee. Failure by owner/occupant to allow the Residential Building Official and the Fire Code Official to allow for such inspection within five (5) business days of the requested inspection shall be a violation of this Ordinance and no further work may be performed until the inspection is completed.

1.18 Notice to Correct or Stop Order. A notice to correct or stop order shall be served in accordance with the following provisions, unless otherwise set forth in this Ordinance:

(a) When a violation of this Code is discovered which can be corrected, the Residential Building Official or Fire Code Official shall issue a notice to correct in order to notify the responsible party of the violations, and to order that the violation be corrected within a reasonable time. Unless a different period is specifically set forth in this Ordinance or an immediate life safety hazard exists, ten (10) calendar days shall be considered a reasonable time to correct any violation.

(b) The notice to correct shall be in writing and must set forth the facts that constitute the violation, the specific provisions of this Ordinance that have been violated, the specific acts required to correct the violation, the time allowed to correct the violation, and the rights to appeal the notice to correct. If the violation is related to a license or permit, the notice to correct may be accompanied by a stop order which orders the responsible party to immediately stop any and all work on the Project that is subject to the permit until the violation is corrected. The notice to correct shall be posted on the subject property and/or sent via first class mail to all responsible parties.

(c) If the violation that is the subject of the notice to correct concerns the failure to apply for and/or obtain a valid Residential Building or fire permit, the time allowed to apply for a permit shall be no less than seven (7) calendar days, and no more than thirty (30) calendar days. A stop order shall accompany the notice to correct, and shall remain in effect pending review of and decision on any permit application.

(d) If the violation that is the subject of the notice to correct concerns (1) the failure to comply with conditions placed on a permit or other entitlement issued by the Band, or (2) a violation of any provision of this Ordinance, the time allowed to correct the violation shall be a minimum of twenty-four (24) hours and a maximum of ninety (90) calendar days, depending upon the type of action that will be necessary to correct the violation. If the violation creates a potential risk of harm to persons or property, a stop order shall accompany the notice to correct, and shall remain in effect until the violation has been remedied to the satisfaction of the Residential Building Official or Fire Code Official.

(e) If the Residential Building Official or Fire Code Official determines that there has been a good faith effort to correct the violation(s) set forth in a notice to correct, the official may extend the deadline for compliance for a reasonable period of time. Any such extension shall be memorialized in writing and a copy sent by first class mail to all responsible parties.

1.19 Notice of Administrative Violation. A notice of administrative violation of this Ordinance may be issued for the following circumstances:

(a) When the violation can be corrected, a notice of correction has been served, and the specified time has passed without adequate correction of the violation;

(b) When a stop order has been issued and has not been complied with by the responsible party; or

(c) When the same violation has been committed by the same responsible party within the past twelve (12) months and a notice to correct or notice of administrative violation has been served on the responsible party within that same twelve (12) month period.

1.20 Penalties.

(a) The failure to remedy a violation of this Ordinance may result in any of the following actions:

(1) The suspension, revocation, or denial of a Residential Building or Fire Permit;

(2) The suspension or discontinuation of payments provided pursuant to a home loan or other tribal-funding provided by the Band; or

(3) Breach of the loan agreement entered into between a tribal member and the Band.

(b) Prior to the suspension, revocation, or denial of any permit, or the suspension or discontinuation of payments pursuant to a home loan or other tribal-funding provided by the Band, or the commencement of any other enforcement action pursuant to this Ordinance, the Residential Building Official or Fire Code Official shall follow the procedures set forth in Sections 1.16-1.20 of this Ordinance.

(c) In the event of any conflict between this Ordinance and any law, rule or regulation of the Federal Government, that requirement which establishes the higher standard of safety shall govern. Failure to comply with such standard of safety shall be a violation of this Ordinance.

1.21 Administrative Appeal Process.

(a) Applicants may file appeals of decisions or determinations made by the Residential Building Official or Fire Code Official relative to the application and interpretation of this Ordinance. Any such appeal must be submitted within fifteen (15) days after the date of such decision or determination.

(b) Appellants shall be allowed to present evidence in support of their appeal during a hearing before the Tribal Council. The Tribal Council will retain subject matter experts to assist and advise any appeal filed hereunder as deemed necessary. The Tribal Council shall render a final decision with respect to the decision or determination being appealed. The process described in this Section is within the exclusive jurisdiction of the Pechanga Band and its agencies and officers, and is the sole recourse for any person filing an appeal pursuant to this Ordinance.

1.22 Tribal Court Jurisdiction. The Pechanga Tribal Court shall have jurisdiction over all matters arising from or related to this Ordinance; provided, however, that the Administrative Appeal Process in Section 1.21 shall be the exclusive remedy for those matters relative to the application or interpretation of this Ordinance.

1.23 Sovereign Immunity. Nothing in this Ordinance shall be deemed to waive the sovereign immunity of the Band or any of its enterprises, officers, agents or employees.

1.24 Effective Date. This Ordinance shall take effect upon its adoption by the General Membership.


1.25 Amendments. This Ordinance may be amended or repealed only by a majority vote of the General Membership of the Band, or its duly authorized delegate, acting at a duly noticed meeting.

1.26 Non-Substantive Revisions. Non-substantive revisions to this Ordinance, including formatting and other technical revisions that do not affect the substance and meaning of the provisions, may be made by the Tribal Council.

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 Residential Building and Fire Ordinance (Pechanga Code of Ordinances Title 8, Division 3, Article 1) was adopted via General Membership Resolution No. 180128-05b at a duly called General Membership Meeting held on the 28th day of January, 2018, by a vote of 86 yes, 16 no, and 1 abstaining, and that such Resolution has not been rescinded or amended in any way.

Dated: January 29, 2018



Louise Burke
Tribal Secretary