

**Pala Band of Mission Indians**  
**Ordinance No. 18**  
**Exclusion and Evictions of Non-Members**



**Amended**  
**March 12, 2008**

# PALA BAND OF MISSION INDIANS

## ORDINANCE # 18

### EXCLUSION AND EVICTION OF NON-MEMBERS FROM THE PALA INDIAN RESERVATION

Be it ordained by the Pala Band of Mission Indians as follows:

#### **SECTION I:        PURPOSE**

The purpose of this Ordinance is to allow for the exclusion or eviction of certain individuals who are not members of the Pala Band of Mission Indians from the Pala Indian Reservation and to prevent Tribal Members and non-members from allowing excluded or evicted person to remain or stay in their homes or on their property, whether tribally or individually owned.

#### **SECTION II:        FINDINGS**

The Pala Band of Mission Indians ("Band") makes the following findings and bases this Ordinance thereon:

(A) The Band is a federally-recognized Indian Tribe with the inherent sovereignty and power to regulate the territory of the Band, and the activities and transactions occurring within the exterior boundaries of the Pala Indian Reservation ("Reservation"), in order to protect and promote the health, safety, education, welfare and other vital interests of the Band and its members, and other Reservation residents and visitors.

(B) The Band has the inherent sovereign power and authority to determine who may enter, remain and reside on the Pala Indian Reservation.

(C) Pursuant to the Band's inherent sovereign authority, the Band may choose to exclude or evict certain persons from the Reservation based on their creation of a nuisance and/or their carrying on activities which are injurious to the health, safety, and welfare of members of the Pala Band and other residents and visitors to the Pala Indian Reservation.

(D) From time to time certain Tribal Members or others have allowed persons who have been excluded or evicted from the Pala Indian Reservation to reside or remain in their homes within the exterior boundaries of the Pala Indian Reservation contrary to the decision of the Pala Band to exclude or evict these individuals from the Reservation.

**SECTION III: DEFINITIONS**

The following terms and phrases when used in this Ordinance shall have the following meanings, except where the context clearly indicates a different meaning:

(A) Band or Pala Band shall mean the Pala Band of Mission Indians.

(B) Executive Committee shall mean the duly elected governing body of the Pala Band of Mission Indians.

(C) Tribal Member shall mean a person who is over the age of eighteen, who is an enrolled member of the Band and is eligible to vote and participate in the affairs of the Band.

(D) Excluded or Evicted Person shall mean a person who has been excluded or evicted from the Pala Indian Reservation by the process provided herein.

(E) General Council shall mean the general voting membership of the Band consisting of all Tribal Members.

(F) Non-Member shall mean any person who is not an enrolled member of the Pala Band of Mission Indians.

(G) Tribal Allocation Plan shall mean the plan for the distribution of gaming revenue submitted to and approved by the Bureau of Indian Affairs.

(H) Tribal Security Department shall mean the employees of the Band who have been hired to keep the peace and provide security for the Band and its assets.

(I) Sheriff's Department shall mean the Sheriff's Department of San Diego County, State of California, which is authorized to enforce certain criminal or Tribal laws within the exterior boundaries of the Pala Indian Reservation.

**SECTION IV:            PROCEDURE FOR EXCLUDING NON-MEMBERS FROM THE  
PALA INDIAN RESERVATION.**

(A) **Persons Subject To Exclusion or Eviction.** Any person who is not a member of the Pala Band of Mission Indians may be removed or excluded from the Pala Indian Reservation upon the grounds stated and manner provided in this ordinance.

(B) **Grounds for Exclusion or Eviction of Non-Members:**

- (1) Interference with the administration, operation and processes of Tribal government as authorized by the Constitution of the Pala Band of Mission Indians.
- (2) Injuring, damaging or threatening persons or property within the exterior boundaries of the Reservation.
- (3) Engaging in conduct in violation of Federal, State or Tribal law or engaging in conduct that would be a violation of State law had the conduct occurred outside the Pala Indian Reservation.
- (4) Engaging in activities causing or resulting in breach of the peace, public unrest or other disruption of the peace, health, morals or welfare of the Pala Band of Mission Indians.
- (5) Engaging in exploratory, investigatory or other analytical activities involving, in any manner, natural resources of the Pala Band without prior permission of the Pala Band, and/or removal of such resources.
- (6) Creating a nuisance or endangering the health, safety, or welfare of members of the Band or other Reservation residents or visitors.
- (7) Interference with Tribal ceremonies without consent of the Tribal Members involved. Under this section the meaning of the term "interference" shall include but is not limited to intrusion upon, disruption of, photographing, taping or other duplication of cultural and/or ceremonial activities.
- (8) Other cause found to be a reasonable basis for exclusion or eviction by the majority of the voting members at a meeting at which the eviction or exclusion is being considered.

(C) **Request for Exclusion or Eviction.** An enrolled Tribal Member, the Pala Executive Committee, or a Tribal agency or department, may initiate a proceeding for the exclusion or eviction of any Non-Member. The written request for exclusion or eviction must state with particularity the grounds upon which the request for exclusion or eviction of a non-member is based. The enrolled Tribal Member who wants the exclusion/eviction must first obtain a permanent restraining order against the Non-Member, and have proof of at least one violation to the restraining order before submitting the request for exclusion/eviction.

(D) **Notice.** Upon an initial determination by the General Council that cause may exist for the exclusion of a Non-Member from the Pala Indian Reservation, the Executive Committee shall cause notice to be served upon such person stating that the proceedings have been initiated to exclude or evict the person from the Pala Indian Reservation. Notice under this subsection shall:

- (1) Be delivered by personal service or by first class mail, return receipt requested, to the Non-Member's last known address. In the event of the latter, service shall be deemed complete upon the date of the return receipt. Notice shall be served no later than ten (10) days prior to the hearing date.
- (2) State specifically the date, time and place of the hearing before the General Council.
- (3) State the grounds upon which exclusion or eviction is sought, including a brief summary of the facts which serve as the basis for the proposed exclusion or eviction. The name(s) of witnesses to be called in support of the proposed action may also be included unless the Executive Committee believes that this would subject those individuals to danger or retaliation.
- (4) Inform the Non-Member of the right to be represented by private counsel at his/her own expense, to present evidence and/or witnesses and to cross-examine adverse witnesses,
- (5) Inform the Non-Member of his/her right to seek a continuance of the hearing date upon a showing of good cause; provided, however, that the decision to grant a continuance shall in all cases be at the sole discretion of the Executive Committee. The term "good cause" as used in this subsection may include, but is not limited to, illness, incarceration, and undue hardship.

(E) **Hearing.** After notice has been served as provided in subsection D above, the Executive Committee shall place on the agenda for the next duly called meeting of the General Council a hearing regarding the exclusion or eviction. The hearing procedures are as follows:

- (1) If the Non-Member, after notice, fails to appear, the General Council may pass a motion to exclude or evict the Non-Member, giving the cause for exclusion or eviction. The Executive Committee shall inform the Non-Member of the decision of the General Council via personal service or first class mail, return receipt requested, at his/her last known address.
- (2) If the Non-Member appears at the hearing before the General Council, the Tribal Member who submitted the written request to initiate exclusion or eviction proceedings may present oral and other tangible evidence regarding the cause for exclusion or eviction, or may ask the Executive Committee to do so. At the conclusion of the presentation of evidence by the Tribal Member of the Executive Committee, the Non-Member or their private counsel may direct questions to witnesses as to any matter within the scope of the statement given and may challenge the validity or accuracy of any evidence presented.
- (3) The Non-Member, or his/her private counsel, may call witnesses and present evidence of any nature supporting the Non-Member's position that he/she should not be excluded or evicted from the Reservation. The Tribal Member who submitted the written request to initiate proceedings or the Executive Committee may direct questions to witnesses produced by the

- Non-Member and may challenge the validity or accuracy of any evidence presented by the Non-Member or his/her private counsel.
- (4) Following the presentation of evidence, any Tribal Member may make a motion to exclude or evict the Non-Member which may include the length of time of said exclusion; provided, however, if no time period is specified in the motion, it shall be deemed to extend permanently.

(F) **Notice of Decision.** Within seven (7) working days following the hearing, the Executive Committee shall inform the Non-Member of the decision of the General Council regarding exclusion or eviction of the Non-Member.

**SECTION V: PROHIBITION AGAINST ALLOWING EXCLUDED OR PERSONS EVICTED TO REMAIN WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION.**

(A) Tribal Members and non-members are prohibited from allowing Excluded or Evicted Persons to remain in their homes or on their property within the exterior boundaries of the Pala Indian Reservation.

(B) The prohibited activity shall include allowing Excluded or Evicted Persons to visit, remain in, and/or reside in the home or on the property of a Tribal Member, whether such home or property is owned by the individual Tribal Member or the Band.

(C) An official listing of Excluded or Evicted Persons shall be maintained by the Executive Committee at the tribal office, and shall be available to all Tribal Members and Reservation residents upon request

(D) Tribal Members and other Reservation residents are responsible for knowing whether a person has been excluded or evicted from the Pala Indian Reservation and will be held accountable for allowing any Excluded or Evicted Person to remain in their home or on their land within the exterior boundaries of the Reservation, whether or not the Tribal Member knows the person has been evicted by the Band.

**SECTION VI: VIOLATIONS**

(A) Violations of this Ordinance shall be documented by the Tribal Security Department or the Sheriff's Department. Such documentation shall be delivered to the Executive Committee.

(B) The Executive Committee shall be authorized to withhold the distribution of all or a portion of the gaming revenues otherwise due to be paid to any Tribal Member if that Tribal Member has been found to have violated this Ordinance. These gaming revenues shall be withheld for such period of time as is determined to be reasonable under the circumstances.

(C) Prior to any action taken by the Executive Committee regarding distribution of gaming revenues, the Executive Committee must provide the Tribal Member with an opportunity to be heard in accordance with Section 4(e) of the Tribal Allocation Plan.

(D) Violations of this Ordinance by non-members may result in those non-members being excluded or evicted from the Reservation based on violation of Tribal Law pursuant to Section IV(B)(3) above.

**SECTION VII: EFFECTIVE DATE, AMENDMENT**

(A) This Ordinance shall become effective on the day after it is approved by the General Council of the Band at a duly-noticed meeting at which a quorum is present.

(B) This Ordinance may be amended at a duly called meeting of the General Council, provided that the amendment is submitted and approved for the General Council agenda.

**CERTIFICATION**

We, the undersigned Executive Committee Members of the Pala Band of Mission Indians, do hereby certify that the above Exclusion Ordinance was amended and adopted by a majority vote of the General Council, at a duly called meeting of the General Council, at which a quorum was present, by a vote of 56 in favor and 0 opposed, with 22 abstention, on this 12<sup>th</sup> day of March, 2008. This version shall supersede all previous versions.

  
Robert H. Smith, Tribal Chairman

  
Leroy H. Miranda, Vice-Chairman

  
Theresa J. Nieto, Treasurer

  
Kilma Lattin, Secretary

  
Annalee Yanez, Committee Member

  
Dion Perez, Committee Member



**-Office of the Secretary-**