



**Picayune Rancheria
of the
CHUKCHANSI INDIANS**
49260 Chapel Hill, PO Box 2226 | Oakhurst, CA 93644 | (559) 412-5590

**Picayune Rancheria
Of the
Chukchansi Indians**

Amended Civil Law and Order Ordinance

**ARTICLE I
FINDINGS AND PURPOSE**

Section 1.1 Declaration. The Picayune Rancheria of the Chukchansi Indians (the "Tribe") is a sovereign federally recognized Indian tribe. The Tribe established a Tribal government and organized under the Constitution of the Picayune Reservation. The Tribal Council of the Tribe is the governing body of the Tribe pursuant to Article IV, Section 2 of the Tribal Constitution and therefore is authorized to act and exercise Tribal Authority on behalf of the Tribe.

Section 1.2 Authority of Tribal Council. The Tribal Council, as governing body of the Tribe, has the power pursuant to the Tribal Constitution to (i) promulgate and enforce ordinances governing the conduct of the members of the Tribe, and non-members within the Tribe's jurisdiction, Article V(b); (ii) safeguard the peace, safety, morals and general welfare of the Tribe, Article V(c); (iii) administer and regulate the use and disposition of all Tribal property, Article V(h); (iv) collect and expend any Tribal funds within the exclusive control of the Tribe, and to recommend the expenditure of any other Tribal funds, Article V(k); and apportion available tribal funds for public purposes, Article V(o).

Section 1.3 Policy. The policy of the Tribe and the Tribal Council is to protect the health, safety and welfare of its Tribal Members, other individuals or guests who are within the jurisdiction of the Tribe, and to preserve the cultural values of the Tribe.

It is also the policy of the Tribe to recognize that women are valued and contributing members of the Tribe, are equally entitled to the rights, freedoms, and protections under the Tribe's laws, and, as such, have the inherent right to be free from Violence Against Women, including Domestic Violence, Sexual Violence, Stalking, and Technological Harassment, as

defined in Article II, Section 2.1 of the Amended Civil Law and Order Ordinance ("Ordinance"), which shall be punishable by sanctions under Article IV and Article V of this Ordinance.

Section 1.4 Purpose. The purpose of this Ordinance is to replace the Tribe's prior "Anti-Violence Ordinance" to achieve the purpose of deterring violence and behavior that threatens the Tribe, the Tribal membership, and other persons within the jurisdiction of the Tribe, including violence and behavior that constitutes Violence Against Women as defined in Article II, Section 2.1.26 of this Ordinance.

By further amending this Ordinance to include certain provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, § 3(a), 119 Stat. 2960, 2965 & 2967 (2006) (codified as amended at 34 U.S.C. § 12291) and the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 3(a), 127 Stat. 54, 58 (codified at 34 U.S.C. § 12291), the purpose of this Ordinance is—

- (a) to emphasize that women are equal, valued, and contributing members of the Tribe;
- (b) to decrease the incidence of acts of Violence Against Women who are Tribal Members or within the jurisdiction of the Tribe;
- (c) to recognize that Violence Against Women is a serious offense that threatens the Tribe, the Tribal membership, and other persons within the jurisdiction of the Tribe;
- (d) to clarify that all prohibited acts outlined in Article III of this Ordinance apply to Violence Against Women;
- (e) to ensure that persons who commit acts of Violence Against Women are held accountable for their actions under Articles IV and V of this Ordinance; and
- (f) to provide survivors of such violence maximum protection from further violence under Tribal law.

Section 1.5 Publication. The Tribal Council published this Ordinance for a thirty-day comment period on January 20th, 2021, and as amended on February 22, 2021.

ARTICLE II DEFINITIONS

As used in this Ordinance, the following words shall have the associated meanings:

Section 2.1 Definitions.

2.1.1. "Act" means a bodily movement whether voluntary or involuntary.

2.1.2. "Assault" means a threat of physical harm to a Person.

2.1.3. "Battery" means an unwanted physical touching of a Person.

2.1.4. "Dangerous Instrument" means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.

2.1.5. "Dating Violence," as defined at 34 U.S.C. § 12291(a)(10), means violence committed by a person-

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

2.1.6. "Deadly Weapon" means anything designed for lethal use or any instrument used in a lethal manner, including a Firearm.

2.1.7. "Domestic Violence," as defined at 34 U.S.C. § 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Tribal law, or by any other person against an adult or youth victim who is protected from that person's acts under Tribal law.

2.1.8. "Facilitation" or "Facilitate" means to engage in conduct which knowingly provides another with the means or opportunity for the commission of an Act.

2.1.9. "Felony" means any crime under the laws of the State of California for which the sentence upon conviction may be incarceration for one year or longer.

2.1.10. "Firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive.

2.1.11. "Harassment" means unlawful violence, such as assault or battery or stalking, or a credible (real) threat of violence where the violence or threats seriously scare, annoy, or harass someone.

2.1.12. "Illegal Substance" means a controlled substance included in Schedule I or II, as defined at 21 U.S.C. § 802(6), the possession of which is unlawful under chapter 13 of that Title. The term "Illegal Substance" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by Tribal, State, or Federal law.

2.1.13. "Impersonation of a Tribal Official" means a false representation to any individual, whether in writing or orally, to be a member of the Tribal Council, a member of any Tribal entity, or an employee of the Tribe or any Tribal entity to any individual upon which an individual receives some benefit or that results in harm to the Tribe, any Tribal entity, or any Tribal Member(s) or may undermine the integrity of the Tribe or any Tribal entity.

2.1.14. "Person" means any enrolled member of the Tribe, other individual or guest within the jurisdiction of the Tribe.

2.1.15. "Random Drug Testing" means a system of drug testing imposed without individualized suspicion that a particular individual is using Illegal Substances.

2.1.16. "Serious Physical Injury" means physical injury which creates a substantial risk of death, or which causes serious or protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

2.1.17. "Sexual Assault," as defined at 34 U.S.C. § 12291(a)(29), means any nonconsensual sexual act proscribed by Tribal, Federal, or State law, including when the victim lacks capacity to consent.

2.1.18. "Stalking," as defined at 34 U.S.C. § 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to-
(A) fear for his or her safety or the safety of others; or
(B) suffer substantial emotional distress.

2.1.19. "Survivor" means any woman who has experienced or been subjected to Violence Against Women as prohibited by this Ordinance.

2.1.20. "Technological Harassment" means behavior intended to harm, threaten, intimidate, stalk, impersonate, surveil, or harass a woman or multiple women, that occurs using the Internet, Internet-enabled devices, social networking sites, computers, mobile devices, cellular telephones, apps, location tracking devices, instant messages, text messages, or other forms of technology, which may include:

(A) unwanted telephone calls, emails, text messages, instant messages, or social media posts of a sexual or discriminatory nature; or

(B) sharing or urging or compelling the sharing of private information, photographs, or videos without consent.

2.1.21. "Tribal Benefits and Services" means any and all programs and/or monies within the control of the Tribe, including, but not limited to, distribution from gaming revenue and/or the Revenue Sharing Trust Fund, as that term is defined in the Tribal-State Compact.

2.1.22. "Tribal Council" means the duly elected Tribal Council of the Tribe in accordance with the Constitution of the Picayune Rancheria of Chukchansi Indians.

2.1.23 "Tribal Official" means a member of the Tribal Council or a member of any Tribal entity.

2.1.24. "Tribe" means the Picayune Rancheria of Chukchansi Indians, as governed by its Constitution.

2.1.25. "Tribal Member" means an enrolled member of the Tribe.

2.1.26. "Trespass" means the unauthorized presence on property or premises within the Tribe's jurisdiction or refusal to obey requests by any owner or individual in charge of property to leave property or premises within the Tribe's jurisdiction.

2.1.27. "Violence Against Women" means a single act or multiple acts or the facilitation of a single act or multiple acts of violence against any woman or multiple women, including but not limited to: Dating Violence, Domestic Violence, Sexual Assault, Stalking and Technological Harassment as defined herein. Violence Against Women may also include assault, battery, harassment and/or trespass as defined by Article II, Sections 2.1.2 to 2.1.3, 2.1.11, and 2.1.26 of this Ordinance.

2.1.28. "Woman" or "women" means a female "Person" as defined under Article II, Section 2.1.14 of this Ordinance.

ARTILCE III PROHIBITED ACTS

Any person who commits one or more of the following prohibited acts shall be subject to sanction under Article IV of this Ordinance:

Section 3.1. Assault or Battery against any Person within the jurisdiction of the Tribe.

Section 3.2. Impersonation of a Tribal Official by any person or group of persons.

Section 3.3. Possession, distribution, or use of Illegal Substances within jurisdiction of the Tribe.

Section 3.4. Trespass on any property within the Tribe's jurisdiction.

Section 3.5. Harassment of any Tribal Official, Tribal Member, or Tribal employee.

Section 3.6. Violence Against Women as defined in Article II, Section 2.1.26 of this Ordinance, including the prohibited acts at Article III, Sections 3.1, 3.4, and Article II, Section 2.1.11.

Section 3.7. The use of Illegal Substances by a Tribal Official, to include any Tribal Council Member.

Section 3.8. Facilitation of any of the above-prohibited acts.

ARTICLE IV ENFORCEMENT

Section 4.1. Power to Impose Sanctions Against Tribal Members for Violation of This Ordinance. In addition to measures to encourage rehabilitation, the Tribal Council, in furtherance of this Ordinance, shall have the power to impose the following sanctions upon any Tribal Member who commits any action described in Article III, provided that the enforcement is imposed no later than two (2) years after the person's commission of the prohibited act becomes known and the violation was prohibited by this Ordinance at the time it was committed:

- (a) order garnishment of the Tribal Member's per capita payments pursuant to Section 5 of the Tribe's Gaming Revenue Allocation Ordinance, for purposes of a sanction and/or restitution, for a period of up to twenty-five (25) years; and/or
- (b) denial of Tribal Benefits and Services for a period of up to twenty-five (25) years.

Section 4.2. Power to Impose Sanctions Against Nonmembers for Violation of This Ordinance. In addition to measures to encourage rehabilitation, the Tribal Council, in furtherance of this Ordinance, shall have the power to impose the following sanctions upon any nonmember who commits any action described in Article III, provided that the enforcement is imposed no later than two (2) years after the person's commission of the prohibited act becomes known and the violation was prohibited by this Ordinance at the time it was committed:

- (a) exclusions from one or more Tribal properties for a period of no more than one (1) year; and
- (b) if the individual violates the exclusion, removal from Tribal properties and/or reporting to State and County officials for criminal prosecution for trespass.

Section 4.3. Factors for Assault and Battery. In weighing the extent of the punishment in response to an Assault or Battery pursuant to Section 4.1, the Tribal Council shall take into account the following factors:

- (a) The use of a Dangerous Instrument;
- (b) The use of a Deadly Weapon;
- (c) The use of a Firearm;
- (d) Injury to a Person;
- (e) Serious Physical Injury to a Person;
- (f) Felony under the laws of the State of California;
- (g) Disruption to the business of the Tribe; and
- (h) Customs and traditions of the Tribe.

Section 4.4. Factors for Impersonation of a Tribal Official. In weighing the extent of the punishment in response to a person impersonating a Tribal Official, the Tribal Council shall take into account the following factors:

- (a) To whom or what entity(ies) the person made the false representation(s);
- (b) Whether such claims were made in good faith;
- (c) The purpose of the false representation;
- (d) Whether the person acted in concert with other individuals;
- (e) The duration and/or frequency of the false impersonation;
- (f) Disruption to the integrity or business of the Tribe or any Tribal entity;
- (g) Cost of the Tribe or any Tribal entity;
- (h) The use of a Dangerous Instrument, Deadly Weapon, or Firearm;
- (i) Physical Injury to any Person resulting from the false representation; and
- (j) Custom and traditions of the Tribe.

Section 4.5. Factors for other violations. In weighing the extent of the punishment in response to other violations of this Ordinance, the Tribal Council shall take into account any factors the Tribal Council deems appropriate, including the factors listed above and:

- (a) The severity of the violation
- (b) The frequency or duration of the violation(s);
- (c) Injury to a Person;
- (d) Disruption to the integrity or business of the Tribe or any Tribal entity;
- (e) Cost to the Tribe or any Tribal entity; and
- (f) Custom and traditions of the Tribe.

Section 4.6. Factors for Violence Against Women. In weighing the extent of the punishment in response to Violence Against Women, the Tribal Council may take into account the factors listed in Article IV, Sections 4.3 and 4.5.

Section 4.7. Exclusion from Tribal Council Eligibility. Persons sanctioned under this Ordinance shall not be eligible to run for Tribal Council.

ARTICLE V

PROTECTION OF HEALTH, SAFETY, AND GENERAL WELFARE

Section 5.1. Power to Exclude to Protect Health, Safety, and General Welfare. If any person poses a threat to the health, safety, and general welfare, the Tribal Council shall have the power to remove or exclude that person from any Tribal office, business, other Tribal property, or other location at which Tribal business is being conducted for any amount of time necessary to protect the health, safety, and general welfare of the Tribe, the Tribal membership, and the general public. Tribal Members may be removed or prospectively excluded from Tribal meetings if necessary to protect the health, safety, and general welfare of the Tribal membership and general public.

Section 5.2. The following conduct may constitute or support a finding that a person poses a threat to the health, safety, and general welfare:

- (a) Carrying weapons on Tribal property;
- (b) Being under the influence of drugs, alcohol, or other Illegal Substances on Tribal property;
- (c) Threatening or carrying out an Assault or Battery during Council meetings; or
- (d) Inciting violence.

Section 5.3. Due Process Not Required in Exigent Circumstances. If Tribal Council determines that a person poses an immediate threat to the health, safety, and general welfare, the Tribal Council may remove or exclude a person from Tribal property or Tribal meetings for a period no more than thirty (30) days without providing the person with due process as provided in Article VI.

Section 5.4. Violence Against Women. Violence Against Women poses a threat to the health, safety, and general welfare, and the Tribal Council may find that such conduct poses an immediate or ongoing threat to these interests. The Tribal Council thus may remove or exclude, or prospectively exclude, persons committing or facilitating Violence Against Women pursuant to Article V, Sections 5.1, 5.3, and 5.5. The Tribal Council may also remove or prospectively exclude from Tribal meetings Tribal Members who commit Violence Against Women.

The Tribal Council may take into consideration the factors outlined in Article V, Section 5.2 to determine that such conduct constitutes or supports a finding that a person poses a threat to the health, safety, and general welfare.

Section 5.5. Removal from meetings for disruption. In addition to the provisions of Sections 5.1 through 5.4 above, a Tribal Member may, after an explicit warning, be removed from a Tribal meeting for engaging in disruptive conduct, including:

- (a) Any action listed in (a) through (d) of Section 5.2 above;
- (b) Failure to sign in prior to attending a meeting, as required by Section 6.1 below;
- (c) Cursing or swearing during Council meetings;

- (d) Loud or disruptive talking during Council meetings;
- (e) Arguing or disrespectful comments directed at the Tribal Council or Tribal Members in attendance at the Council meeting;
- (f) Failure to abide by a call to order by the Tribal Council during Council meetings;
- (g) False Impersonation of a Tribal Official during Council meetings;
- (h) Failure to abide by any other rules of conduct or procedure adopted by the Tribe;
or
- (i) Violence Against Women.

ARTICLE VI RULES AND PROCEDURE OF TRIBAL MEETINGS

Section 6.1. Access to Tribal Council and General Council Meetings. The Tribal Council expressly restricts attendance at Tribal Council and General Council meetings to enrolled members of the Tribe. An enrolled member of the Tribe may be accompanied by a caretaker such as an immediate family member or home care provider that provides assistance to an elder or person with a disability. Immediate family is defined as: spouse, children, and/or mother/father. Attendants of any Tribal meeting shall be required to sign in prior to entering the meeting. Proof of enrollment or family relationship may be required of any individual seeking entrance to Tribal Council meetings. Proof of enrollment may be shown by: an official Tribal Enrollment Card, an official Tribal Letter of Enrollment, or the individual's name being found entered on the official Membership Roll.

General Council members shall not be admitted to closed sessions of the Tribal Council except by specific authorization by the Tribal Council. The Tribal Council may authorize members of the general public to attend Tribal Council or General Council meetings for certain purposes, including but not limited to giving presentations.

Section 6.2. Public Statements of Board Members. The Tribal Council recognizes the rights of Council members to freely express their views and encourages open discussion of issues during Council meetings. The Tribal Council believes that effective Council members have a responsibility to express themselves, whether in agreement or disagreement with the Council majority, in ways that promote the Council's ability to govern the Tribe. When speaking to the general public or to Tribal Members, Council members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Council or Tribe.

Section 6.3. Disclosure of Confidential Information. Confidential information/privileged information that is produced for or which comes out during closed sessions of the Tribal Council shall not be divulged or released unless a majority of the Council agrees to release the information. Personnel matters involving Tribal employees are confidential information and may not be discussed at Tribal Council meetings unless a majority of the Council agrees to release the information. However, if a Tribal employee chooses to discuss personnel matters publically, such action may be deemed by the Council as a waiver of confidentiality.

Section 6.4. Testing for Illegal Substance Use. All Tribal Officials, to include Tribal Council Members, are subject to random drug testing for the use of Illegal Substances. The Tribal Council recognizes that a valid prescription for a controlled substance may produce a positive test result. The Tribal Council may determine that a Tribal Official, to include a Tribal Council Member, who tests positive due to a valid prescription is not subject to the provisions of Article IV.

Section 6.5. Meetings and Agenda. Monthly meetings of the Tribal Council are regularly held on the fourth Monday of each month starting at 6:00 p.m. Special meetings of the Tribal Council may be called by the Tribal Chairperson and also shall be called by her/him upon receipt of a petition signed by at least three Tribal Council Members. When Special meetings are called, the Tribal Council shall have the power to transact business as in regular meetings, provided that a quorum is present.

Any member of the Tribe can request that an item be placed on the agenda of a monthly meeting. The request must be in writing and submitted to the Tribal Chairperson with supporting documents and information, if any, at least one week before the regularly scheduled meeting. Items submitted less than one week before the scheduled meeting may be postponed to a later meeting in order to allow sufficient time for consideration of the issue. Tribal Council meeting agendas shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session. The agenda shall be available at the start of the Council meeting.

Section 6.6. Comments by Tribal membership. Prior to voting on any agenda item, the Tribal Council may, in its discretion, provide an opportunity to the Tribal membership to ask questions or comment on the agenda item at issue. Individual Tribal Members shall be allowed to speak on the issue at hand only after being recognized by the Chair.

During the monthly meeting, the Tribal Council shall provide a period for general public comment. Individual members shall be allowed to speak for three (3) minutes on issues concerning Tribal business only after being recognized by the Chair. The Tribal Council may choose to respond to comments or questions without taking action. In order to allow sufficient time to consider the matter, the Tribal Council may take action to place the issue on a future agenda without comment.

ARTICLE VII DUE PROCESS

Section 7.1. Due Process. Prior to imposing any sanction pursuant to this Ordinance, the Tribal Council shall afford an accused person an opportunity to be heard according to the following procedure:

7.1.1. Upon the passage of a resolution by the Tribal Council that a Tribal Member shall be sanctioned under this Ordinance, the Tribal Member shall be notified in writing by a certified mail return receipt requested to his/her official address according to the record of the Enrollment Department of the Tribe. The resolution, and any sanction, shall not take effect until thirty (30) days after delivery of the notice unless the Tribal Member requests a hearing, in which case the resolution, and any sanction, shall not take effect until the Tribal Council makes a determination after the hearing. Resolutions shall only be issued to address actions that were a violation of this Ordinance at the time they were committed. The Tribal Council may, in its discretion, schedule a hearing without a request being made, in which case the resolution, and any sanction, shall not take effect until the Tribal Council makes a determination after the hearing.

7.1.2. The notice to the Tribal Member shall include a copy of the resolution including the proposed sanction, a copy of this Ordinance, and shall provide the Tribal Member at least thirty (30) days from delivery of the Notice to respond to request a hearing to challenge the resolution. The notice shall notify the Tribal Member of the alleged violation of this Ordinance, any evidence on which the Tribal Council relied to pass the resolution and where such evidence may be reviewed, the Tribal Member's right to request a hearing and be represented by legal counsel at his/her own expense, and the consequences of not requesting a hearing.

7.1.3. If the Tribal Member does not respond within the time period allotted in the notice, the resolution shall take immediate effect.

7.1.4. If the Tribal Member requests a hearing to challenge the resolution, the Tribal Council shall schedule such hearing in a timely manner, and within 60 days, and shall provide the Tribal Member no less than two (2) weeks' notice of the date, time, and location of such hearing.

7.1.5. The Tribal Member may be represented by legal counsel at the hearing, and shall have an opportunity to present evidence of his/her innocence or mitigating factors. The Tribal Council shall make a determination in the Tribal Member's absence if the Member fails to appear at the hearing.

7.1.6. The Tribal Council shall notify the Tribal Member of its determination in writing within thirty (30) days of the date of the hearing.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. No Waiver of Sovereign Immunity. Nothing in this Ordinance shall be construed to limit the jurisdiction of the Tribe, and nothing herein shall limit or constitute a

waiver of the sovereign immunity of the Tribe or its officers, instrumentalities and agents or authorize any form of a prospective waiver of such sovereign immunity.

Section 8.2. Violence Against Women. Nothing in this Ordinance shall be construed to affect the issuance, validity, or enforcement of a protective order, evidence to be used against the person alleged to have committed acts of Violence Against Women, or the rights of the survivor in enforcement or criminal proceedings under the Tribe's laws.

Section 8.3. No Acceptance of State Jurisdiction. Nothing in this Ordinance shall be construed as assenting to or otherwise allowing the application of California civil law or civil regulatory or adjudicatory jurisdiction within the Tribe's territory or jurisdiction.

Section 8.4. Severability. The provisions of this Ordinance are declared to be separate and severable. If a court of competent jurisdiction shall adjudge to be invalid any clause, sentence, paragraph, section, article or chapter of this Ordinance, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the clause, sentence, paragraph, section, article or chapter of this Ordinance as adjudged to be invalid.

Section 8.5. Effective Date. This Ordinance as amended shall be effective as of the date on which the Tribal Council adopts this Ordinance and publishes notice within the Tribe.

CERTIFICATION

The Tribal Council of the Picayune Rancheria of Chukchansi Indians does hereby certify that the foregoing Ordinance was adopted by the Tribal Council at a duly called meeting on the 22 day of February, 2021, at which a quorum of 6 was present, and was adopted by a vote of 4 FOR, 1 AGAINST, 0 and 0 ABSTAINING. (1) Absent (1) Not voting