



Mashpee Wampanoag Tribe

TRIBAL RESOLUTION

2015-ORD-008

**MASHPEE WAMPANOAG TRIBAL
CRIMINAL OFFENSES ORDINANCE**

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The Mashpee Wampanoag Tribal Council does ordain as follows:

Section 1. FINDINGS

The Mashpee Wampanoag Tribal Council finds as follows:

- (a) The Mashpee Wampanoag Tribe is a federally-recognized Indian Tribe with a duly-enacted Constitution and the governing body of the Tribe is the Mashpee Wampanoag Tribal Council pursuant thereto.



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- (b) Article VI, § 2.A of the Constitution provides that the Tribal Council is empowered to promote and protect the health, peace, morals, education, political integrity, economic security and general welfare of the Tribe and its members.
- (c) Article VI, § 2.L. of the Constitution provides that the Tribal Council is empowered to establish and enforce all ordinances governing Tribal members.
- (d) Article V, § 3 of the Constitution provides that the Tribal Judiciary is vested with all the Tribe's judicial powers.
- (e) The Tribe intends to exercise criminal jurisdiction over its Tribal citizens on Tribal lands and to the full extent under federal law, and toward that end, will adopt appropriate criminal codes and establish institutions to support the exercise thereof.
- (f) The Tribal Council deems it in the best interest of the Tribe and its Tribal members to set forth criminal offenses within all Tribal Lands to insure the health, peace, morals and general welfare of the Tribal community.
- (g) The Tribal Council has determined that in the interest of insuring a smooth transition to Tribal criminal jurisdiction over Tribal members, other Native Americans and Tribal lands, the Tribe deems it appropriate to adopt the contents of State of Massachusetts law as an interim measure.
- (h) The Mashpee Wampanoag Tribal Court, as provided by the Constitution, is vested with the judicial powers to review all alleged violations of this Ordinance.

Section 2. AUTHORITY AND PURPOSE

- (a) **Authority.** The authority for this Ordinance is found in Article VI, § 2.A and § 2.L., and Article V, § 3 of the Constitution.
- (b) **Purpose.** The purpose of this Ordinance is to set forth criminal offenses for Tribal members and other Native Americans as defined herein within all Tribal Lands.

Section 3. DEFINITIONS

- (a) "Mashpee Wampanoag Tribe" or "Tribe" or "Tribal" refers to the Mashpee Wampanoag Tribe.



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- (b) "Native American" means any individual that is a member of a federally recognized Indian Tribe.
- (c) "Offense" shall mean any act which is a violation of Tribal criminal law.
- (d) "Ordinance" means this 2015-ORD-000 Mashpee Wampanoag Tribal Criminal Offenses Ordinance.
- (e) "State" means the State of Massachusetts.
- (f) "Tribal Council" means the Mashpee Wampanoag Tribal Council.
- (g) "Tribal Court" means the Tribal Court of the Tribe.
- (h) "Tribal Member" means a natural person who is duly enrolled in the Tribe.
- (i) "Tribal Lands" means all federal trust lands of the Tribe and all other lands over which the Tribe has jurisdiction.

In the event that the federal government takes additional lands into federal trust on behalf of the Tribe, these lands will automatically be included in this definition of Tribal Lands.
- (j) "Tribal Police Department" means the Mashpee Wampanoag Tribal Police Department as established pursuant to Tribal law.

Section 4. JURISDICTION

- (a) This Ordinance shall apply to those acts violating this Ordinance that are committed by Tribal members and Native Americans.
- (b) This Ordinance shall only apply to those criminal offenses committed on Tribal Lands.

Section 5. PENALTIES. Violations of those criminal offenses specified in Section 6 of this Ordinance shall be punishable in Tribal Court by imprisonment for a term of not more than one (1) year and a fine of not more than five-thousand (\$5,000) dollars or both.

Section 6. CRIMINAL OFFENSES

- (a) The Tribe hereby adopts as Tribal law the contents of criminal laws of the State of Massachusetts and all other actions, activities, and conduct determined to be criminal or prohibited pursuant to Tribal law with the exception of all criminal offenses found in



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Massachusetts General Laws c. 130, Marine Fish and Fisheries and c. 131, Inland Fisheries and Game and Other Natural Resources.

(b) Any and all contents of the criminal laws of the State that prohibit, impede, obstruct, stand in the way of, hinder, inhibit, restrict, constrain, hamper, block, or handicap Tribal members from exercising his or her Tribal aboriginal rights are not herein adopted by the Tribe.

(c) The Tribe does not adopt the enforcement mechanisms or penalties of the criminal laws of the State. The Tribal Court and Tribal Police Department shall be responsible for all enforcement, penalties and other implementation activities of this Ordinance.

(d) Notwithstanding anything herein, the adoption per Section 6(a) above shall not be construed as an adoption of State law, rule, or regulation (or the law, rule, or regulation of any State subdivision), or an agreement to the enforcement of any such law, rule, or regulation on Tribal Lands.

(e) In the event of a conflict between the contents of State law adopted pursuant to this Ordinance and other Tribal laws, Tribal law shall govern.

(f) The Tribe need not comply with any standard in the criminal laws of the State of Massachusetts. Reference to the criminal laws of the State of Massachusetts does not confer jurisdiction upon the State or its political subdivisions.

Section 7. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this Ordinance shall be construed to waive, alter, or amend the Tribe's sovereign immunity or the sovereign immunity of any of the Tribe's enterprises, agencies, officers, agents, or employees.

Section 8. REPEALER. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

Section 9. SEVERABILITY. If any section, subsection, paragraph, sentence, or other portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

Section 10. EFFECTIVE DATE. This Ordinance shall take immediate effect and be enforced from and after its passage and publication for one (1) year after passage. In the meantime, the Tribe shall work on the development of its own criminal laws. If for any reason the Tribe cannot



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develop its own criminal laws during this one (1) year period, the Tribe may extend this Ordinance's enforcement period for an additional period of time.

Passed by the Mashpee Wampanoag Tribal Council on November 12, 2015.

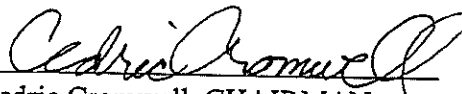


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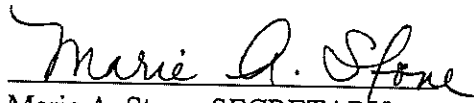
CERTIFICATION

We, the undersigned Chairman and Secretary of the Tribal Council of the Mashpee Wampanoag Tribe hereby certify that the Tribal Council is composed of 13 members, of whom 9 constituting a quorum, were present at a regular meeting thereof, duly and regularly called, noticed, convened and held on the 12th day of November, 2015, and that the foregoing Ordinance 2015-ORD-008 was duly adopted by the affirmative vote of 8 members, with 0 opposing, and with 0 not voting.

DATED THIS 12th day of November, 2015.


Cedric Cromwell, CHAIRMAN
Mashpee Wampanoag Tribal Council


ATTEST:

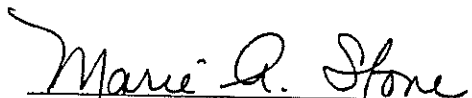

Marie A. Stone, SECRETARY
Mashpee Wampanoag Tribe
Notary Public, Commission Expires 04-15-2016

CERTIFICATION OF POSTING

This is to certify that the Ordinance titled 2015-ORD-008, Mashpee Wampanoag Tribal Criminal Code, has been posted in accordance with 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.

DATED this 12th day of November, 2015.


Cedric Cromwell, CHAIRMAN
Mashpee Wampanoag Tribal Council


Marie A. Stone, SECRETARY
Mashpee Wampanoag Tribe
Notary Public, Commission Expires 04-15-2016