



Mashpee Wampanoag Tribe

2018-ORD-011 AMENDMENT TO 2018-ORD-008, MASHPEE WAMPANOAG TRIBAL LAW AND ORDER ORDINANCE

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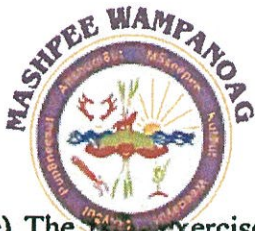
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The Mashpee Wampanoag Tribal Council does ordain as follows:

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.
- (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.



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- (e) The Tribe exercises criminal jurisdiction over its citizens and lands to the full extent under federal law, and toward that end, has adopted appropriate criminal codes and has established institutions to support the exercise thereof.
- (f) The Tribal Council deemed it in the best interests of the Tribe to set forth criminal offenses to insure the health, peace, morals and general welfare of the Tribal community. Thus, the Tribe Council adopted the *2018-ORD-008 Mashpee Wampanoag Tribal Law and Order Ordinance*.
- (g) The Tribal Council deems it in the best interest of the Tribe and its Tribal members to amend *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* to make certain revisions recommended by the Mashpee Wampanoag Police Department.

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 amend the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance*.

Section 3. AMENDMENTS.

- (a) **Amendments to Chapter 1, Section 1.1.** Chapter 1, Section 1.1 of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by adding a new subsection (k) to read as follows:

(k) Nothing in this Ordinance is intended to disrupt, impede, alter or otherwise prohibit the exercise of Mashpee Wampanoag Tribal aboriginal rights. In the event that this subsection contradicts with the exercise of aboriginal rights, the exercise of aboriginal rights will prevail.

- (b) **Amendments to Chapter 1, Section 1.3(c).** Chapter 1, Section 1.3(c) of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by deleting “substantial impairment of the physical condition including any burn, fracture of bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child’s health or welfare” and in replacement thereof adding “a cut, abrasion, bruise, burn, or disfigurement; physical pain ; illness; impairment of



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the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary” to read as follows:

(c) “Bodily injury” means a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary.

(c) **Amendments to Chapter 1, Section 1.3(ee).** Chapter 1, Section 1.3(ee) of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by deleting “bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death” and adding in replacement thereof “bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty” to read as follows:

(ee) “Serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(d) **Amendments to Chapter 1, Section 1.3(ff).** Chapter 1, Section 1.3(ff) of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended to read as follows:

(ff) “Sexual conduct” means actual or simulated:

- (1) sexual intercourse, whether between persons of the same or opposite sex;
- (2) sexual penetration of an orifice;
- (3) penetration of the vagina, rectum by any object, except when done as part of a recognized medical procedure;
- (4) bestiality;
- (5) masturbation;
- (6) sadomasochistic abuse;



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- (7) lewd exhibition of the genitals, breasts, pubic or rectal area of any person; or
- (8) Defecation or urination for the purpose of the sexual stimulation of the viewer.
- (e) **Amendments to Chapter 2, Section 2.8(a).** Chapter 2, Section 2.8(a) of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by deleting “(1) Attempts to cause or knowingly causes bodily injury to another through unlawful force or violence, or (2) Attempts by physical menace to put another in fear of imminent serious bodily harm, whether or not such harm actually occurs” and in replacement thereof adding “(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or (2) Negligently causes bodily injury to another with a deadly weapon; or (3) Attempts by physical menace to put another in fear of imminent serious bodily injury” to read as follows:
- (a) **ay8utuwôk (“Simple Assault”).** A person is guilty of the misdemeanor crime of ay8utuwôk (“simple assault”) if he or she:
- (1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or
 - (2) Negligently causes bodily injury to another with a deadly weapon; or
 - (3) Attempts by physical menace to put another in fear of imminent serious bodily injury.
- (f) **Amendments to Chapter 4, Section 4.9(c).** Chapter 4, Section 4.9(c) of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by (1) deleting “Mandatory”; and (2) deleting “shall arrest and take into custody the primary aggressor, but is not required to arrest both” and in replacement thereof adding “may make an arrest or arrests in his or her discretion” to read as follows:
- (c) **Arrest.** When a Tribal Police Officer responds to a domestic disturbance call and has probable cause to believe that an offense of domestic violence has occurred, the Officer may make an arrest or arrests in his or her discretion.
- (g) **Amendments to Chapter 6, Section 6.4.** Chapter 6, Section 6.4 of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by renumbering



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from “(p) All-Terrain Vehicle Use”; “(q) Camping”; “(r) Gas Station”; and “(v) Commercial Signage” to read as follows: “(v) All-Terrain Vehicle Use”; “(w) Camping”; “(x) Gas Station”; and “(y) Commercial Signage.”

(h) Amendments to Chapter 6, Section 6.4. Chapter 6, Section 6.4 of the *2018-ORD-008, Mashpee Wampanoag Tribal Law and Order Ordinance* is hereby amended by adding a new subsection (z) to read as follows:

(z) Wild canid and felid hybrids. No person shall possess, sell, trade, breed, import, export or release a wild canid hybrid or wild felid hybrid on Tribal lands. Any mammal which is the offspring of the reproduction between any species of wild canid or hybrid wild canid and a domestic dog or hybrid wild canid, or is represented by its owner to be a wolf hybrid, coyote hybrid, coy dog or any other kind of wild canid hybrid, or which is the offspring of the reproduction between any species of wild felid or hybrid wild felid and a domestic cat or hybrid wild felid or is represented by its owner to be a wild felid hybrid. All mammals shall be considered to be wild mammals and subject to this subsection (z).

Section 4. REPEALER. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

Section 5. 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 6. EFFECTIVE DATE. This Ordinance shall take immediate effect and be enforced from and after its passage and publication.

Passed by the Mashpee Wampanoag Tribal Council on October 17, 2018.



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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 10 constituting a quorum, were present at a regular meeting thereof, duly and regularly called, noticed, convened and held on the 17th day of October, 2018, and that the foregoing Ordinance was duly adopted by the affirmative vote 8 of members, with 0 opposing, and with 2 not voting.

DATED THIS 17th day of October, 2018.


Cedric Cromwell, CHAIRMAN
Mashpee Wampanoag Tribal Council

ATTEST:



Ann Marie Askew, SECRETARY
Mashpee Wampanoag Tribe

CERTIFICATION OF POSTING

This is to certify that the Ordinance titled 2018-ORD-011, Amendment to Mashpee Wampanoag Tribal Law and Order Ordinance, has been posted in accordance with 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.

DATED this 17th day of October, 2018.


Cedric Cromwell, CHAIRMAN
Mashpee Wampanoag Tribal Council


Ann Marie Askew, SECRETARY
Mashpee Wampanoag Tribal Council