

**Yurok Tribal Code, Administration**

**YUROK INDIAN HOUSING AUTHORITY ORDINANCE**

*Pursuant to the authority vested in the Yurok Tribe by its Constitution, and particularly by Article I, Section 4 and Article IV, Section 5 thereof, and its authority to provide for the health, safety, and welfare of the Tribe and Tribal members, the Yurok Tribal Council hereby establishes a public body that is a political subdivision of the Tribe, known as the Yurok Indian Housing Authority, and enacts this ordinance establishing the purposes and duties of the Authority.*

<b>TABLE OF CONTENTS</b>	<b>PAGE</b>
GENERAL PROVISIONS.....	3
SECTION 4001. Short Title.....	3
SECTION 4002. Findings.....	3
SECTION 4003. Purpose .....	4
SECTION 4004. Scope .....	4
SECTION 4005. Sovereign Immunity Preserved .....	4
SECTION 4006. Severability.....	4
SECTION 4007. Effective Date.....	5
SECTION 4008. Amendment and Restatement; Effect.....	5
SECTION 4009. Definitions.....	5
CHAPTER 1. BOARD OF COMMISSIONERS.....	7
SECTION 4101. Establishment of the Board .....	7
SECTION 4102. Qualifications of Commissioners.....	7
SECTION 4103. Nomination and Appointment of Voting Commissioners; Vacancies.....	8
SECTION 4104. Council Liaison to the Authority.....	8
SECTION 4105. Voting Rights .....	8
SECTION 4106. Composition.....	9
SECTION 4107. Participation in Projects.....	9
SECTION 4108. Term of Office.....	9
SECTION 4109. Oath of Office .....	9
SECTION 4110. Officers of the Board.....	9
SECTION 4111. Removal.....	10
SECTION 4112. Compensation .....	10
SECTION 4113. Quorum; Voting .....	10

SECTION 4114.	Records; Role of Secretary, Treasurer .....	10
SECTION 4115.	Schedule of Meetings .....	10
CHAPTER 2.	POWERS .....	10
SECTION 4201.	Political Subdivision of the Tribe.....	10
SECTION 4202.	Political Lobbying Prohibited.....	10
SECTION 4203.	Authority to Sue and Be Sued; No Waiver of Tribal Sovereign Immunity .....	11
SECTION 4204.	Specific Powers .....	11
SECTION 4205.	Secure Funding and Cooperation.....	13
CHAPTER 3.	OBLIGATIONS.....	13
SECTION 4301.	Authority to Issue.....	13
SECTION 4302.	No Personal Liability .....	13
SECTION 4303.	No Tribal Debt .....	14
SECTION 4304.	Tax Exempt Status .....	14
SECTION 4305.	Method of Issuance; Sale.....	14
SECTION 4306.	Negotiability; Issuance To Aid in Financing Project.....	14
SECTION 4307.	Specific Authorities .....	15
CHAPTER 4.	MISCELLANEOUS .....	16
SECTION 4401.	Annual Report.....	16
SECTION 4402.	Ongoing Reporting Requirements .....	16
SECTION 4403.	Quarterly Meetings .....	17
SECTION 4404.	Conflict of Interest; Mandatory Disclosure; Misconduct.....	17
SECTION 4405.	Federal Financial Assistance Requirements.....	17
SECTION 4406.	Fidelity Bond.....	18
SECTION 4407.	Not for Profit Operation.....	18
SECTION 4408.	Public Property; Tribal Tax Exempt Status.....	18
SECTION 4409.	Property Exempt from Sale .....	18
SECTION 4410.	Council Oversight.....	18
SECTION 4411.	Certificate of Good Standing.....	19
CHAPTER 5.	COOPERATION IN CONNECTION WITH PROJECTS .....	20
SECTION 4501.	Tribal Cooperation for Projects.....	20
SECTION 4502.	Eviction Actions .....	20

SECTION 4503.	Tribal Court Review of Decisions.....	21
SECTION 4504.	Continued Applicability .....	21
CHAPTER 6.	DISSOLUTION .....	21
SECTION 4601.	Dedication of Assets to Housing Purposes .....	21
SECTION 4602.	Dissolution; Distribution of Assets .....	21

**GENERAL PROVISIONS**

**SECTION 4001. Short Title**

This amendment and restatement of the Amended YIHA Ordinance shall be known as the “Yurok Indian Housing Authority Ordinance” or the “YIHA Ordinance.”

**SECTION 4002. Findings**

The Tribal Council finds and declares:

- (a) That at the time of enactment of the Amended YIHA Ordinance there existed in the Yurok Area of Operation unsafe and overcrowded dwelling accommodations; that there was a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices that Tribal members could afford; that there were insufficient dwelling accommodations to meet the needs of Tribal members who want to live within the Yurok Area of Operation; and that such shortage forced Tribal members to leave the area or to occupy unsanitary, unsafe and overcrowded dwelling accommodations;
- (b) That these conditions: caused an increase in and spread of disease and crime; constituted a threat to the health, safety and welfare of Tribal members; and necessitated excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention and other public services and facilities;
- (c) That the Authority has made significant progress since the enactment of the Amended YIHA Ordinance to relieve these conditions, but that the underlying conditions and need for safe and affordable housing persist;
- (d) That the shortage of decent, safe and sanitary dwelling accommodations cannot be relieved through the operation of private enterprises;
- (e) That the providing of decent, safe and sanitary dwelling accommodations are public uses and purposes, for which Tribal money may be spent and private property acquired and are governmental functions of Tribal concern;
- (f) That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings by the Authority and authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at affordable costs will continue to build a more stable and larger volume of residential construction and

- housing supply which will assist materially in achieving full employment;
- (g) That the Tribe has determined that the provisions of this ordinance are necessary for the public interest;
  - (h) That Tribal Council has the responsibility to ensure Tribal housing activities are conducted in a fair and accountable manner;
  - (i) That the Authority is a public body created and operated pursuant to Tribal law;
  - (j) That the Authority shall succeed to and maintain responsibility for all rights, obligations, assets and liabilities of the Authority immediately preceding adoption of this amendment and restatement of the Amended YIHA Ordinance.

**SECTION 4003. Purpose**

The Tribe amends and restates the Amended YIHA Ordinance in order to ensure that the Authority is organized and operated for the purposes of administering Tribal housing funds to:

- (a) Remedy unsafe and unsanitary housing conditions that constitute a threat to the health, safety, and welfare of Tribal members;
- (b) Alleviate the acute shortage of decent, safe and sanitary dwellings;
- (c) Provide employment opportunities through the construction, reconstruction, improvement, extension, alteration, repair or operation of dwellings; and
- (d) Work with the Council and Tribal departments as necessary to fulfill the responsibilities herein and to secure the confidence of the Tribal members.

**SECTION 4004. Scope**

In any suit, action, or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of this ordinance, duly certified by the Council Secretary, shall be admissible in evidence in any suit, action, or proceeding.

**SECTION 4005. Sovereign Immunity Preserved**

Except as judicial review is authorized in this ordinance, and in accordance with the Yurok Tribe's Supreme Ordinance, nothing in this ordinance shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe.

**SECTION 4006. Severability**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this ordinance are severable.

**SECTION 4007. Effective Date**

This amended and restated YIHA Ordinance shall take effect immediately upon adoption by the Council and the Authority shall have 60 days to bring any policies into compliance.

**SECTION 4008. Amendment and Restatement; Effect**

- (a) Amendment and Restatement. The Amended YIHA Ordinance is hereby amended and restated and Council adopts the amended and restated ordinance in its entirety as the YIHA Ordinance.
- (b) Existing Rights and Liabilities. This amendment and restatement of the Amended YIHA Ordinance shall not affect any project, act done, any right accruing or accrued, or any suit or proceeding had or commenced in any civil case before said repeal. All rights, obligations, and liabilities of the Authority under the Amended YIHA Ordinance shall continue, and may be enforced in the same manner, by the Authority as if such repeal had not been made. All rights and liabilities of tenants and homebuyers under the repealed ordinance shall continue, and may be enforced in the same manner, as if such repeal had not been made.
- (c) Existing Offices. This amendment and restatement of the Amended YIHA Ordinance shall not abolish, terminate, or otherwise change:
  - (1) the operation or structure of the Yurok Alliance for Northern California Housing; or
  - (2) the operation or structure of the Kohte'li Foundation; or
  - (3) any office, position, board, or committee of the Authority; or
  - (4) the appointment or employment of any commissioner or employee of the Authority

existing immediately preceding the effective date of this amendment and restatement, the continuance of which is not manifestly inconsistent with any provision of this ordinance, and the same shall continue unless and until changed in accordance with this ordinance.

**SECTION 4009. Definitions**

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context of the ordinance:

- (a) *Amended YIHA Ordinance* means the Tribal Ordinance Establishing the Yurok Indian Housing Authority originally adopted on February 9, 1995, subsequently amended by Council Resolution 97-01 on January 8, 1997, and in effect immediately preceding the effective date of this amendment and restatement.
- (b) *Area of Operation* means all areas within the jurisdiction of the Tribe, and including Yurok ancestral territory and the California Counties of Humboldt and Del Norte.
- (c) *Authority* means the Yurok Indian Housing Authority established pursuant to the Amended YIHA Ordinance and acting pursuant to this ordinance and through the Board.

- (d) *Board* means the Board of Commissioners as established by Chapter 2 of this ordinance.
- (e) *Commissioner* means a member of the Board.
- (f) *Council* means the Yurok Tribal Council.
- (g) *District Councilmember* means a Councilmember elected to represent a Council District specified in the Yurok Constitution Article III, Section 2.
- (h) *Federal Government* means the government of the United States of America, including the Department of Housing and Urban Development or any other agency or instrumentality, corporate or otherwise, of the United States of America.
- (i) *Homebuyer* means a person who has executed a lease-purchase agreement with the Authority and who has not yet achieved home ownership.
- (j) *Housing Project* or *Project* means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: loans or subsidizing of rentals or charges) decent, safe and sanitary dwelling accommodations. Such work or undertaking may include buildings, leaseholds, equipment, facilities, and other personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water services, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term "housing project" or "project" also may be applied to the planning of buildings and improvements, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration, or repair of improvements, or other property and all other work in connection therewith and the term shall include all tangible or intangible assets held or used in connection with the housing project.
- (k) *Moral Turpitude* means conduct that is contrary to justice, honesty, or morality or so extreme a departure from ordinary Yurok standards of honesty, good morals, justice or ethics as to be shocking to the moral sense of Yurok people. Moral turpitude shall include, but shall not be limited to, the following:
  - (1) Fraud;
  - (2) Embezzlement;
  - (3) Extortion;
  - (4) Theft;
  - (5) Bribery;
  - (6) Receiving stolen goods knowing they are stolen;
  - (7) Perjury;
  - (8) Child abuse, including physical or sexual abuse;
  - (9) Contributing to the delinquency of a minor, including sexual relations with a minor, sexual exploitation of a minor, production or trafficking of child pornography, or serving or providing illegal drugs or alcohol;
  - (10) Assault with an intent to kill, commit serious bodily harm, or rape or with a dangerous weapon;

- (11) Arson;
  - (12) Rape;
  - (13) Murder;
  - (14) Felony conviction for domestic abuse;
  - (15) Intentional manufacture, use, or distribution of a controlled substance or drug trafficking; and
  - (16) Aiding or abetting in the commission of, or attempting to commit, a crime involving moral turpitude.
- (l) *NAHASDA* means the Native American Housing Assistance and Self-Determination Act, 25 U.S.C § 4101 et seq., and implementing regulations, 24 C.F.R. Part 1000.
  - (m) *Obligation* means any note, bond, interim certificate, debenture, or other form of obligation issued by the Authority pursuant to this ordinance.
  - (n) *Obligee* includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessors interest or any party thereof, and the federal government when it is a party to any contract with the Authority in respect to a housing project.
  - (o) *Officer* means the Chairperson, Vice Chairperson, Secretary, or Treasurer of the Board.
  - (p) *Reservation* means all lands within the exterior boundaries of the Yurok Reservation.
  - (q) *Tenant* means a person who holds, occupies, or possesses land or property by any kind of right or title, such as a person who pays rent to a landlord pursuant to a lease or rental agreement in exchange for living accommodations.

## **CHAPTER 1. BOARD OF COMMISSIONERS**

### **SECTION 4101. Establishment of the Board**

The affairs of the Authority shall be managed by a Board of Commissioners composed of eight members, known as commissioners. Upon adoption of this ordinance, the Board shall consist of the commissioners then in office, whose terms and service shall be governed by the provisions of this ordinance.

### **SECTION 4102. Qualifications of Commissioners**

- (a) Ineligible Persons. A person convicted within 10 years of the date of appointment of, or currently charged by information or indictment with, a felony or crime of moral turpitude in a Tribal, state, or federal court shall not be eligible to serve on the Board.
- (b) Automatic Removal for Conviction. A commissioner convicted at any time within the previous 10 years of, or currently charged by information or indictment with, a

felony or crime of moral turpitude in a Tribal, state, or federal court automatically shall be deemed removed from the Board, creating a vacancy on the Board.

- (c) Ineligibility Due To Delinquent Payment. A person who is delinquent in the payment of any monetary obligation due to the Authority or the Tribe shall not be eligible to serve on the Board. Any commissioner more than 90 days delinquent in the payment of any monetary obligation due the Authority or Tribe automatically shall be deemed removed from the Board, creating a vacancy on the Board.

**SECTION 4103. Nomination and Appointment of Voting Commissioners; Vacancies**

- (a) Disclosure of Convictions. In accordance with the Yurok Constitution Article III, Section 5, any candidate for appointment as a commissioner shall upon nomination or application for appointment fully disclose to the Council the fact and date of any conviction for a felony or crime of moral turpitude, the court in which the conviction was entered, the offense for which convicted, the sentence imposed, and the place and manner in which the sentence was served or otherwise discharged.
- (b) Appointment. Commissioners shall be appointed, and may be reappointed, by the Chairperson, with the advice and consent of the Council, as described in the Yurok Constitution Article IV, Sections 1 and 5.
- (c) Nomination. Each District Councilmember shall have a representative commissioner and may nominate one candidate for the Board to the Council to be considered for appointment. In the event the Council rejects a nominee, the District Councilmember shall nominate another candidate. If no nomination is made by the District Councilmember within 30 days from the date of a commissioner's vacancy or rejection of a nominee by the Council, then the Council Chairperson can nominate a candidate. The Chairperson shall give priority to nominating a candidate from the District Councilmember's district. The Chairperson may nominate an at-large candidate, who must reside in a district, if the Chairperson is unable to find a person from the district willing to be the district candidate and acceptable to the Chairperson.
- (d) Certification of Appointment. A certificate of the Secretary of the Council to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.
- (e) Vacancies. Vacancies on the Board for voting commissioners shall be filled in accordance with the process for nomination and appointment in this section.

**SECTION 4104. Council Liaison to the Authority**

Council shall nominate and appoint a Councilmember to serve on the Board as liaison to the Authority. Council may appoint an alternate Councilmember as liaison in the case that the primary liaison is unable to participate in Board business or has a conflict of interest.

**SECTION 4105. Voting Rights**

Each commissioner shall have voting rights, except the Council liaison shall serve as a non-voting commissioner.

**SECTION 4106. Composition**

A commissioner shall be a Tribal member.

**SECTION 4107. Participation in Projects**

No person shall be barred from serving on the Board because that person is a tenant or homebuyer in a housing project of the Authority. A commissioner who is a tenant or homebuyer in an Authority housing project shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect the commissioner as well. However, no such commissioner shall be entitled or permitted to participate or be present at any meeting, except in the capacity as a tenant or homebuyer, or to be counted or treated as a member of the Board concerning any matter involving the commissioner's individual rights, obligations or status as a tenant or homebuyer.

**SECTION 4108. Term of Office**

- (a) Voting Commissioners. A voting commissioner's term of office shall coincide with the term of office of the nominating District Councilmember. Each voting commissioner shall hold office until the commissioner's successor has been nominated and appointed, except a voting commissioner's term shall automatically expire when removed, when replaced, 30 days after the nominating District Councilmember's term comes to an end, or 30 days after the nominating District Councilmember's office is vacated and the vacancy is filled pursuant to Article III, Section 10 of the Constitution. A District Councilmember shall have the option of nominating an incumbent commissioner for reappointment or nominating a new candidate. In the case of a vacancy of a voting commissioner during a term, the replacement commissioner shall serve only for the length of the unexpired term.
- (b) Council Liaison. The Council liaison shall serve as a commissioner until removed or replaced by the Council, the liaison's Council office becomes vacant, or the liaison's term of office as a Councilmember comes to an end.

**SECTION 4109. Oath of Office**

Each commissioner shall take the oath of office specified in the Yurok Constitution Article VIII.

**SECTION 4110. Officers of the Board**

- (a) Board Chairperson. The Board shall elect a Board Chairperson from among its members. The Board Chairperson shall preside over Board meetings.
- (b) Other Officers. The Board shall elect from among its members a Vice-Chairperson, a Secretary, and a Treasurer and any commissioner may hold two of these positions. In the absence of the Chairperson, the Vice-Chairperson shall preside over Board meetings. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary shall preside over Board meetings.
- (c) Council Liaison Ineligibility. The Council liaison is ineligible to serve as a Board officer.

**SECTION 4111. Removal**

The Council by major action may remove or replace any commissioner from the Board with or without cause at any time by motion of the District Councilmember for the district represented by the commissioner or of the Chairperson. Removal of a commissioner shall be considered a major action under the Yurok Constitution Article IV, section 5, and shall require the approval of at least five members of the Council, including a vote by the Council Chairperson if needed.

**SECTION 4112. Compensation**

Commissioners may receive compensation for their services in an amount to be determined by the Tribal Council, and shall be compensated for expenses, including travel expenses, reasonably incurred in the discharge of their duties.

**SECTION 4113. Quorum; Voting**

Five commissioners of the Board shall constitute a quorum for the transaction of business. No Board action shall be taken by a vote of less than a majority of the voting commissioners composing the quorum.

**SECTION 4114. Records; Role of Secretary, Treasurer**

- (a) Meeting Records. The Secretary shall keep or oversee the keeping of complete and accurate records of all meetings and actions taken by the Board.
- (b) Financial Records and Reports. The Treasurer shall keep or oversee the keeping of full and accurate financial records, make periodic reports to the Board and submit a complete annual report in written form to the Council.

**SECTION 4115. Schedule of Meetings**

Meetings of the Board shall be held as provided in the bylaws.

**CHAPTER 2. POWERS**

**SECTION 4201. Political Subdivision of the Tribe**

The Council hereby establishes the Authority as a subordinate political subdivision of the Tribe and subject to the laws and regulations of the Tribe in the conduct of its affairs and activities. The Authority is created pursuant to Yurok Tribal law. The Authority maintains sovereign immunity from suit as a political subdivision of the Tribe, and such sovereign immunity extends to the commissioners and the Authority's employees acting within the scope of their official duties.

**SECTION 4202. Political Lobbying Prohibited**

No substantial part of the activities of this organization shall consist of carrying on propaganda, or otherwise attempting to influence legislation, except as authorized by the Council, and the Authority

shall not participate or intervene in any political campaign, including the publishing or distribution of statements, on behalf of or in opposition to any candidate for public office.

**SECTION 4203. Authority to Sue and Be Sued; No Waiver of Tribal Sovereign Immunity**

The Council hereby gives its consent to allow the Authority to sue and be sued in the Authority's name, upon any contract, claim, or obligation arising out of its activities under this ordinance. In giving this consent, the Council does not intend to waive the Authority's sovereign immunity from suit, including that of its commissioners and employees. Rather, the Council hereby authorizes the Board by a vote of a majority of the full Board to provide a limited waiver of the Authority's sovereign immunity and consent to suit by an express written provision in a contract or other agreement. The Council directs the Board to make any such limited waiver subject to such conditions as the Council or the Office of the Tribal Attorney deems appropriate.

The Council does not give the Authority consent to waive the Tribe's sovereign immunity, including that of its officers and employees, and the Tribe shall not be liable for the debts or obligations of the Authority. Funds provided under NAHASDA are deemed to be funds of the Tribe and are not subject to the waiver of sovereign immunity applicable to the Authority under this section.

**SECTION 4204. Specific Powers**

The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

- (a) To adopt and use an Authority seal.
- (b) To enter into agreements, contracts and understandings with any federal, state or local government or governmental entity, or with any person, partnership, corporation, Indian tribe or other entity and to agree to any conditions attached to any financial assistance thereto.
- (c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with any conditions which the federal government may have attached to its financial aid to the project.
- (d) To obligate itself, in any contract with the federal government, to convey to the federal government possession of the project to which such contract relates, on the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject. Such contract may further provide that in case of such conveyance, the federal government may compete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract. Any such contract shall require that, as soon as practicable after the federal government is satisfied that all defaults with

respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the Authority the project as then constituted.

- (e) To lease property from the Tribe and others for such periods as are authorized by law, and to hold, manage or sublease the same.
- (f) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Chapter 3 of this ordinance.
- (g) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein in accordance with the Yurok Constitution Article IV, Section 5.
- (h) To purchase land or interests in land, to take the same by gift, and to lease land or interests in land to the extent provided by law.
- (i) To undertake and carry out studies and analyses of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part thereof.
- (j) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease, rent, sell, or enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to develop policies and procedures concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further policies and procedures as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance.
- (k) To finance purchase of a home by an eligible homebuyer or Tribal member.
- (l) To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.
- (m) To establish income limits for admission to federally assisted housing that ensure that dwelling accommodations in a housing project shall be made available as per the regulations governing such funds.
- (n) To purchase supplies, equipment, or other personal property, and insurance for any property or against any risk or hazards, provided all such property is used exclusively to fulfill the Authority's purposes.
- (o) To invest such funds as are not required for immediate disbursement.
- (p) To establish and maintain such bank accounts as may be necessary or convenient.
- (q) To employ, establish the compensation for, and direct an executive director, technical and maintenance personnel and other such officers and employees,

permanent or temporary as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

- (r) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.
- (s) To join or cooperate with other public housing agencies operating under the laws of a federal, state, or tribal government in the exercise, either jointly or otherwise, of the powers of the Authority and such other public housing agencies for the purposes of financing (including but not limited to the issuance of notes or other obligations and giving security therefore), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project. For such purposes, the Authority may by resolution, but only with the approval of Council, prescribe and authorize such other public housing agencies to act on the Authority's behalf with respect to any or all powers.
- (t) To adopt such bylaws as the Board deems necessary and appropriate.

#### **SECTION 4205. Secure Funding and Cooperation**

It is the purpose and intent of this ordinance to authorize the Authority, with the Council's oversight and on behalf of the Tribe, to do any and all things necessary or desirable to secure public or private financing or the financial aid or cooperation of the federal government or other funding source in the undertaking, construction, maintenance or operation of any project by the Authority.

### **CHAPTER 3. OBLIGATIONS**

#### **SECTION 4301. Authority to Issue**

The Authority with the approval of Council may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations on which the principal and interest are payable:

- (a) Exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income or revenues together with a grant from the federal government in aid of such project or under any guarantee provided under NAHASDA or other authority;
- (b) Exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or
- (c) From its revenues generally.

#### **SECTION 4302. No Personal Liability**

Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

**SECTION 4303. No Tribal Debt**

Obligations of the Authority shall not be a debt of the Tribe and any obligations shall so state on their face.

**SECTION 4304. Tax Exempt Status**

Obligations of the Authority are declared to be issued for an essential public and government purpose and to be a public instrumentality of the Tribe. Obligations, with interest and income, shall be exempt from taxes imposed by the Tribe and by the State or federal governments to the extent authorized by law. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being stated in the obligations, a contract between:

- (a) The Authority and the Tribe, and
- (b) The holders of obligations and each of them, including all transferees of the obligations from time to time.

**SECTION 4305. Method of Issuance; Sale**

Obligations shall be issued and sold in the following manner:

- (a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and approved by a vote of the Council.
- (b) Obligations may be issued in one or more series.
- (c) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption with or without premium, as such resolution may provide.
- (d) The obligations may be sold at public or private sale at not less than par.
- (e) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

**SECTION 4306. Negotiability; Issuance To Aid in Financing Project**

Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority or the security thereof, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation is issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this ordinance.

## **SECTION 4307. Specific Authorities**

In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in this ordinance, may:

- (a) Pledge all or any part of its gross or net rents, fees or revenues to which its rights then exists or may thereafter come into existence.
- (b) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenant or rights securing or relating to the obligations.
- (c) Covenant against pledging all or any part of its rents, fees and revenues or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.
- (d) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.
- (e) Covenant as to what other additional debts or obligations may be incurred by it.
- (f) Provide for the replacement of lost, destroyed or mutilated obligations.
- (g) Covenant against extending the time for the payment of its obligations or interest thereon.
- (h) To redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.
- (i) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.
- (j) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.
- (k) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportions of outstanding obligations the holders of which must consent thereto and the manner which such consent may be given.
- (l) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.
- (m) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant condition or obligation.
- (n) Covenant and prescribe as to events of default and terms and conditions upon which any of all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (o) Vest in any obligees or any proportion of them the right to enforce the payment of

the obligations or any covenants securing or relating to the obligations.

- (p) Exercise all or any part or combination of the powers granted in this section.
- (q) Make covenants other than, and in addition to, the covenants expressly authorized in this section, of like or different character.
- (r) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.
- (s) Take and hold title and interests in real property in its own name.

## **CHAPTER 4. MISCELLANEOUS**

### **SECTION 4401. Annual Report**

The Authority shall submit an annual report, signed by the Chairperson of the Board, to the Council showing:

- (a) A summary of the year's activities,
- (b) The financial condition of the Authority,
- (c) The condition of the properties,
- (d) The number of units and vacancies,
- (e) Any significant problems and accomplishments,
- (f) Plans for the future, and
- (g) Such other information as the Authority or the Council shall deem pertinent.

### **SECTION 4402. Ongoing Reporting Requirements**

- (a) NAHASDA Reports. The Authority shall submit to the Council all reports required by NAHASDA, including, but not limited to, periodic progress reports, performance reports, audit reports, and the annual compliance assessment.
- (b) Monthly Reports. The Authority shall submit to the Council once per month, unless such requirement is waived in writing by the Council, a list detailing the following:
  - (1) All commissioners and employees with a direct or indirect interest in a project and the nature of that interest,
  - (2) All commissioners and employees receiving Yurok housing benefits and the type of benefits received, and
  - (3) All commissioners receiving a personal benefit from their position.
- (c) Executive Director and Chairperson's Report. The Executive Director and the Board Chairperson, or a commissioner duly designated by the Chairperson, shall appear before the Council at the second Council planning meeting of each month, unless such requirement is waived in writing by the Council, to report on the status, progress, performance, and projects of the Authority.

### **SECTION 4403. Quarterly Meetings**

The Authority and Council shall have quarterly meetings at Council's first regularly scheduled meeting in January, April, July, and October of each year, unless the Authority and Council agree to waive such requirement. In the event an agenda item of a quarterly meeting involves a specific Tribal member complaint, the Tribal Council shall secure a release of confidential information from such Tribal member in order to have an open discussion with the Authority regarding such complaint, or shall address the issue in an executive session with the Authority.

### **SECTION 4404. Conflict of Interest; Mandatory Disclosure; Misconduct**

- (a) Conflict of Interest. Commissioners and employees shall comply with Tribal conflict of interest policies, as provided to the Board or Authority's executive director, or Authority conflict of interest policies that are at least as strict as Tribal policies.
- (b) Mandatory Disclosure. During a commissioner's or employee's tenure and for one year thereafter, no commissioner or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to a project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract relating to any project, unless prior to such acquisition, the person discloses his or her interest in writing to the Council and to the Board and such disclosure is entered upon the minutes of the Board. The commissioner or employee shall not participate in any action by the Authority relating to the property or contract in which that person has any such interest. If any commissioner or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner or employee, the commissioner or employee shall immediately disclose his interest in writing to the Board and such disclosure shall be entered upon the minutes of the Board. A commissioner or employee shall not participate in any action by the Authority relating to any property or contract in which that person has any such interest.
- (c) Disclosure of Personal Benefit. Any commissioner receiving a personal benefit from a project shall immediately disclose the benefit in writing to the Council and to the Board, and such disclosure shall be entered upon the minutes of the Board.
- (d) Misconduct. Any violation of the provisions of this section shall constitute misconduct in office.
- (e) Inapplicability. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project or to the execution of agreements by banking institutions for the depositor handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board.

### **SECTION 4405. Federal Financial Assistance Requirements**

Each project developed or operated under a contract providing for federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable

federal legislation, and with all regulations and requirements prescribed from time to time by the federal government in connection with such assistance. If the Authority fails to comply or it appears to the Council that the Authority might fail to comply with such federal requirements, including those prescribed by NAHASDA, the Council may take whatever action it deems necessary in its sole discretion to ensure compliance.

**SECTION 4406. Fidelity Bond**

The Authority shall obtain or provide for the obtaining of adequate fidelity bond for persons handling cash, or authorized to sign checks or certify vouchers.

**SECTION 4407. Not for Profit Operation**

The Authority shall not construct or operate any project for profit.

**SECTION 4408. Public Property; Tribal Tax Exempt Status**

The property of the Authority is declared to be public property used for essential public and governmental purposes. The Authority and Authority property is exempt from all Tribal taxes, except as provided by a Tribal ordinance, but not the TERO fee. The Authority shall comply with the TERO Ordinance, including payment of all TERO fees required under that ordinance.

**SECTION 4409. Property Exempt from Sale**

All Authority property, including funds acquired or held by the Authority pursuant to this ordinance and NAHASDA, shall be exempt from levy, sale, charge or lien by judicial process or judgment. The provisions of this section shall not limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rent, fees or revenues; the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance; or the right of the Tribe to seek property forfeiture pursuant to Tribal law.

**SECTION 4410. Council Oversight**

- (a) Monitoring and Oversight. Pursuant to its powers under the Yurok Constitution and NAHASDA, the Council shall have monitoring and oversight responsibility for the programs, policies, and activities of the Authority to ensure compliance with Yurok Tribal law and policies and NAHASDA. The Council retains the right to monitor and oversee all expenditures of Authority funds through review and approval of annual operating budgets, Indian Housing Plans, annual performance reports, policies and procedures, and quarterly fiscal reports of each grant.
- (b) Inspection of Records. The Council, or its designee, shall have the power to inspect and copy any and all records of the Authority in order to meet its monitoring and oversight responsibility, but shall maintain the confidentiality of any records identified by the Authority as confidential.
- (c) Approval of Major Undertakings. The Council shall have the power to approve or deny all major undertakings by the Authority. The Authority shall submit an agenda item to the Council for approval of the major undertaking and Council shall hear the

item at its next regularly scheduled meeting or a special meeting called for such purpose. If Council does not act on the major undertaking at that meeting or tables it to the next meeting, then it shall be deemed approved. Major undertakings include the following:

- (1) A detailed Indian Housing Plan;
  - (2) Projects whose actual or projected cost exceeds \$250,000 and obligations in excess of \$250,000, unless a greater monetary amount is specified by the Council;
  - (3) The percentage as a proportion of income set for rental and home ownership;
  - (4) A contract or agreement for legal services;
  - (5) The creation or establishment of a sub-entity, non-profit or for-profit entity, or affiliate;
  - (6) A memorandum of understanding, a memorandum of agreement, or other similar agreement with any tribal, federal, state or local government or governmental entity;
  - (7) A sale or transfer of land or interest in land to non-Tribal members or a non-Tribal entity; and
  - (8) A significant monetary cost or obligation or policy determination that is specified by the Council as a major undertaking by resolution.
- (d) Approval of Planned Projects. At the same time as or prior to the time the Authority presents its annual Indian Housing Plan for approval, the Authority shall present specific projects planned for that fiscal year for Council review and approval.
- (e) Utilization of Tribal Employees. The Authority may utilize Tribal employees through Memorandums of Agreement without solicitation in the operation and contracting for housing needs and services whenever possible and as guided by the Council.
- (f) Audit of Fiscal Records. The Tribal Fiscal Department, or alternative entity designated by Council, shall monitor and review or audit Authority fiscal records on a schedule to be reasonably determined and agreed upon by the Council and the Authority.

#### **SECTION 4411. Certificate of Good Standing**

- (a) Application. The Authority shall annually apply to the Council for a certificate of good standing. Such application shall be submitted to the Council no later than 30 days from the close of the Authority's fiscal year.
- (b) Council Review. Council shall approve the Authority's application if Council determines that all reporting requirements under sections 4401 and 4402 are satisfied. If Council determines in its reasonable discretion that the Authority has not satisfied the reporting requirements under sections 4401 and 4402, Council may disapprove the Authority's application or Council may specify a date by which the Authority must cure its performance under sections 4401 and 4402.
- (c) Time for Review. Council shall have 30 days to review the Authority's application for

a certificate of good standing. If Council does not approve or disapprove the application within 30 days from the date Council receives the application or the date specified to cure, whichever is later, the application shall be considered to have been approved by the Council and a certificate shall issue.

- (d) Reapplication If Disapproved. The Authority may reapply for a certificate at any time after the Authority's application has been disapproved and after the Authority has taken substantial steps to cure the problem underlying the disapproval. The review of the Authority's reapplication shall conform with the requirements of subsections (b) and (c).
- (e) Current Certificate Required. The Authority shall have no authority, except with the written approval of the Council, to act as the tribally designated housing entity of the Yurok Tribe under NAHASDA unless it maintains a current certificate of good standing. The Authority's certificate of good standing shall remain current during the application and review process specified in subsections (a) through (c).
- (f) Tribe as NAHASDA Recipient. If the Authority does not maintain a current certificate of good standing, then the Tribe shall maintain authority to act in place of the Authority as a recipient under NAHASDA to receive grant funds.

## **CHAPTER 5. COOPERATION IN CONNECTION WITH PROJECTS**

### **SECTION 4501. Tribal Cooperation for Projects**

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

- (a) TERO fees do not constitute a tax or special assessment and the Tribe will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.
- (b) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.
- (c) It may grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development of such project, and the surrounding territory.
- (d) It will act within its lawful powers as necessary to aid and cooperate in the planning, undertaking, construction or operation of projects.

### **SECTION 4502. Eviction Actions**

The Tribal Court shall be the preferred venue for unlawful detainer or eviction actions. Unless prohibited by law, the Authority shall not oppose any motion to change venue or otherwise transfer

an unlawful detainer or eviction action to the Tribal Court. Council declares that the powers of the Tribe shall be vigorously utilized to enforce a Tribal Court order evicting a tenant or homebuyer for nonpayment or other contract violations.

#### **SECTION 4503. Tribal Court Review of Decisions**

- (a) Eviction Actions. The Yurok Tribal Court shall have jurisdiction to adjudicate any action for eviction of a tenant or homebuyer, regardless of the location of the property involved, or other action taken by the Authority.
- (b) Exhaustion; Appeal of Authority Decision. A tenant or homebuyer must exhaust the Authority's administrative appeals process before filing an action in Tribal Court appealing a decision of the Authority. Any tenant or homebuyer who is not satisfied with a final Authority decision against that person may appeal the decision to the Yurok Tribal Court within 30 days of the final Authority decision and in accordance with Tribal Court rules and procedures. Notwithstanding the foregoing, this subsection shall not be construed to be a waiver of the Authority's sovereign immunity, including that of its officers and employees.
- (c) Consent to Tribal Court Jurisdiction. A person, by becoming a tenant or homeowner, consents to jurisdiction of the Yurok Tribal Court to enforce provisions of this ordinance. The Council may approve a specific Memorandum of Understanding allowing limited jurisdiction of other courts.

#### **SECTION 4504. Continued Applicability**

The provisions of this chapter shall remain in effect with respect to any project.

### **CHAPTER 6. DISSOLUTION**

#### **SECTION 4601. Dedication of Assets to Housing Purposes**

Authority property is irrevocably dedicated to the provision of housing and related assistance and no part of the net income or assets of the Authority shall ever inure to the benefit of any employee or commissioner or to the benefit of any private person.

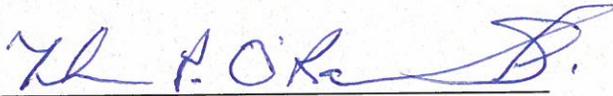
#### **SECTION 4602. Dissolution; Distribution of Assets**

On the dissolution or winding up of the Authority, its assets remaining after payment of, or provision for the payment of, all debts and liabilities of the Authority shall be distributed to a nonprofit fund, foundation or corporation of the Tribe or one of the Tribe's political subdivisions which is organized and operated exclusively for the provision of housing and related assistance and which has established its tax-exempt status under section 501(c)(3) of the Internal Revenue Code or as a result of its status as a federally recognized Indian tribe or tribal entity.

**C\*E\*R\*T\*I\*F\*I\*C\*A\*T\*I\*O\*N**

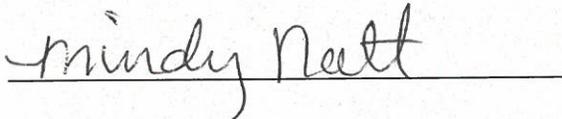
THE FOREGOING ORDINANCE, ENTITLED THE YUROK INDIAN HOUSING AUTHORITY ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON JUNE 6, 2014, AT WHICH A QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY A VOTE OF 6 FOR, 2 OPPOSED AND 0 ABSENTIONS IN ACCORANDANCE WITH ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUROK TRIBE.

**DATED THIS 6th DAY OF JUNE 2014**



Thomas P. O'Rourke, Sr., Chairperson  
Yurok Tribal Council

**ATTEST:**



Mindy Natt, Secretary  
Yurok Tribal Council