

Yurok Tribal Code, Government

YUROK TRIBAL COUNCIL ORDINANCE

Pursuant to its authority under Article IV, Section 5 of the Yurok Constitution, as certified on November 24, 1993, the Yurok Tribal Council hereby enacts the following ordinance to maintain and protect the public trust of the Yurok Tribe:

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GENERAL PROVISIONS

SECTION 6001. Short Title

This ordinance shall be referred to as the “Yurok Tribal Council Ordinance.”

SECTION 6002. Findings

The Council is authorized by the Preamble of the Constitution to “Insure peace, harmony, and protection of individual human rights among our members and among other members who may come within the jurisdiction of our tribal government.”

This ordinance has been adopted by the Council after careful thought and consideration pursuant to the Constitution of the Yurok Tribe in which the power and authority granted under Article IV, Section 5(a) states that the Council may “enact legislation, rules, and regulations not inconsistent with this constitution to further the objectives of the Yurok Tribe...”

This ordinance is in accordance with Article VIII of the Constitution, which states “All elected and appointed officials shall take the following oath: ‘I, (state your name), do solemnly swear (or affirm) that I will uphold and defend the Constitution, sovereignty and traditions of the Yurok Tribe, and I will perform the duties of my office with honesty and

fidelity. I further swear (or affirm) that I will devote my best efforts to help the Yurok Tribe achieve its objectives as stated in the Preamble of the Constitution.”

SECTION 6003. Purpose

The purpose of this ordinance is to maintain and protect the public trust of the Tribe by requiring elected officials to adhere to the highest ethical obligations expected of elected officials and also setting forth consequences for violating the public trust of the Tribe. The specific purposes of this ordinance, which are not meant to describe violations, include, but are not limited to, the following:

- (a) To set forth high ethical standards by which Council members of the Tribe will conduct themselves in a manner that protects, promotes, and strengthens the inherent sovereignty of the Tribe.
- (b) To set forth the high ethical standards of honesty, integrity, fairness, and impartiality for elected officials of the Tribe.
- (c) To ensure, consistent with the traditions and cultural values of the Tribe, that Council members act in accordance with the Preamble of the Constitution, which states “This whole land, this Yurok country, stayed in balance, kept that way by our good stewardship, hard work, wise laws, and constant prayers to the creator.”
- (d) To guide elected officials of the Tribe to avoid any actions that would adversely impact the Tribe.
- (e) To ensure that elected officials of the Tribe act in the best interests of the Tribe and not in the personal interests of elected officials.
- (f) To foster the free and good government of the Tribe by assisting elected officials of the Tribe in avoiding conflicts between personal interests and public responsibility.
- (g) To protect the interests of the Tribe by providing for fair, honest, and efficient tribal government.
- (h) To promote and strengthen the faith and confidence of Tribal members in the Tribal government.
- (i) To ensure that elected officials put forth an honest effort in the performance of governmental duties.
- (j) To distinguish between issues of ethical concern by elected officials, and minor and inconsequential conflicts that are unavoidable by elected officials.

(k) To ensure elected officials, in addition to this ordinance, adhere to all policies and ordinances prescribed for elected tribal officials, including but not necessarily limited to the Council Vehicle Use Policy, Council Drug Testing Policy, Mandatory Meeting Policy, Credit Card Use Policy, Agenda Item Submission Policy, Conflict of Interest Policy, and Computer Equipment Use Policy.

(l) To provide clarification and notification concerning what may constitute a “for cause” impeachable offense as defined by the Constitution Article X, section 1, which states: “Any elected official of the Yurok Tribe shall be subject to recall for willful neglect of duty, corruption in office, habitual drunkenness or use of illegal drugs, incompetency, incapability of performing his/her duties or committing any offense involving moral turpitude, or conduct seriously detrimental to the sovereignty or traditions of the Yurok Tribe while in office.”

(m) To ensure that the public trust of the Tribe is at all times maintained and respected by elected officials of the Tribe.

SECTION 6004. Intent and Guiding Principles

It is the intention of the Council that the provisions of this ordinance be construed and applied in each instance to require elected officials to make decisions and actions free from undue influence, conflicts of interests, or other inappropriate and unethical behavior. Elected officials shall be guided by the following principles, detailed in the Preamble of the Constitution, in their behavior:

(a) Preserve forever the survival of our Tribe and protect it from forces which may threaten its existence;

(b) Uphold and protect our tribal sovereignty which has existed from time immemorial and which remains undiminished;

(c) Reclaim the tribal land base within the Yurok Reservation and enlarge the Reservation boundaries to the maximum extent possible within the ancestral lands of our tribe and/or within any compensatory land area;

(d) Preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren on, forever;

(e) Provide for the health, education, economy, and social wellbeing of our members and future members;

(f) Restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests, and all other natural resources; and

(g) Insure peace, harmony, and protection of individual human rights among our members and among others who may come within the jurisdiction of our tribal government.

(h) Ensure all Tribal laws and ordinances are upheld and enforced.

(i) Apply the fines, sanctions, and other penalties detailed in this ordinance to violations under this ordinance.

(j) Not apply this ordinance retroactively to any fines, sanctions, or violations that are imposed or occur prior to enactment of this ordinance.

SECTION 6005. Scope

This ordinance shall only apply to Tribal Council members of the Tribe.

SECTION 6006. 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 6007. 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 6008. Definitions

- (a) *Complainant* means any qualified person who files an ethics complaint alleging violation of this ordinance by an elected official.
- (b) *Constituents* means the enrolled Tribal membership. In the case of a Council member, the constituents are the Tribal members who live within that elected official's district, and in the case of the Chairperson or Vice-Chairperson, the constituents are all Tribal members.
- (c) *Constitution* means the Constitution of the Yurok Tribe as certified on November 24, 1993.
- (d) *Council* means the Yurok Tribal Council.
- (e) *Council Liaison* means an individual Council member appointed to represent a Tribal department, program or issue within Council and to Tribal or outside organizations.
- (f) *Elected Official* means any person elected or appointed to, or otherwise serving on, the Tribal Council.

- (g) *Employment* means professional services and other services rendered by an elected official, whether rendered as an employee, consultant, or other independent contractor.
- (h) *Ethics Complaint* or *Complaint* means a complaint filed with the Ethics Review Board alleging violations of this ordinance.
- (i) *Ethics Review Board* or *Board* means the Ethics Review Board as established in chapter 5 of this ordinance.
- (j) *GSA* means U.S. General Services Administration.
- (k) *Immediate Family* means relatives of up to the third degree (first cousin or closer) and the spouse of the relevant person, including the parents, spouse or significant other, children and children's significant others, sisters, brothers, mother-in-law, father-in-law, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, grandparents, grandchildren, foster children, aunts, uncles, nieces, nephews, aunts-in-law, uncles-in-law, nieces-in-law, nephews-in-law, or others raised in the home or residing in the home of the relevant person.
- (l) *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.
- (m) *Perjury* means deliberately providing material false or misleading statements or information while under oath or during official proceedings, including Tribal Council meetings.
- (n) *Polling* or *Poll Vote* means an informal vote by Council members outside of the agenda of regularly scheduled Council meetings to determine the general position of Council members on a particular issue, for emergency situations, and as further defined in Section 6102.
- (o) *Presence* means physical presence or presence by electronic means whereby an elected official is able to engage in simultaneous communication and as further defined in Section 6103.
- (p) *Reservation* or *Yurok Reservation* means all lands within the exterior boundaries of the Yurok Tribe Indian Reservation.
- (q) *Respondent* means any elected official against whom an ethics complaint was filed.
- (r) *Tribal Equipment* or *Equipment* means any equipment or property purchased or acquired with Tribal funds or resources, including Tribal computer or electronic equipment isuch as desktop computers, laptop computers, electronic tablets, cell phones, voice recorders, and projectors.
- (s) *Tribe* or *Tribal* means or refers to the Yurok Tribe.
- (t) *Tribal Secretary* means the Secretary of the Yurok Tribal Council.
- (u) *Tribal Vehicle* means a vehicle owned by the Tribe or General Services Administration.
- (v) *Unauthorized Use* means the use of Tribal resources or property for any purpose or activity that has not been authorized or sanctioned by Tribal laws or policies.

SECTION 6009. Construction with Other Laws, Ordinances, or Policies

Any part of this ordinance in conflict with the Constitution of the Tribe shall be superseded by the Constitution. Any and all ordinances or other Tribal law previously enacted, other than the Constitution, that conflict with this ordinance are hereby amended to the extent that they are inconsistent with, or are contrary to, the spirit and purposes of this ordinance. Any policy provision, whether now in place or later enacted, that conflicts with this ordinance shall be superseded by this ordinance. When such discrepancies are noted, the Council shall take affirmative action to effect such amendments that are necessary to make other ordinances and Tribal laws consistent with this ordinance. All other provisions of such ordinances and Tribal laws that conflict with this ordinance shall not remain in effect.

SECTION 6010. Tribal Court Jurisdiction

Tribal Court shall not have jurisdiction to hear violations or complaints under this ordinance or claims brought by Tribal members to enforce provisions of this ordinance. Tribal Court shall have jurisdiction to hear claims brought by Tribal members that this ordinance violates or otherwise conflicts with the Constitution and to hear civil suits alleging a person filed a false, frivolous, or malicious ethics complaint under Chapter 6 of this ordinance.

CHAPTER 1. COUNCIL MEETING PROCEDURES

SECTION 6101. Presence at Council Meetings

Presence for purposes of establishing a quorum for Council meetings generally requires that a Council member be physically present. Presence shall also be established if a Council member is able to engage in simultaneous communication and effectively participate in and comment during discussions through electronic means, such as by telephonic or video participation.

SECTION 6102. Poll Votes

A poll vote is an informal vote outside of the agenda of a regularly scheduled Council meeting by Council members to gauge a position on an emergency issue. A poll vote on an issue may occur in emergency situations when immediate action is necessary to protect Tribal interests, and such poll vote shall, if appropriate, be subsequently formalized by Council action at the next duly called meeting. Polling shall require a phone call, email, and text to all Council members indicating the time for a discussion and providing all Council members an opportunity to participate in the discussion regarding the issue. Polling may take place by telephone or video conference or in person.

SECTION 6103. Major Actions Defined

- (a) Types of Actions. In accordance with the Constitution Article IV, Section 5, no major action shall be enacted unless approved by at least five members of the Tribal Council, including a vote by the Tribal Chairperson if needed. A major action is defined to include the following:
 - (1) Excluding or banishing a person from the Yurok Reservation,
 - (2) Providing a limited waiver of sovereign immunity in accordance with requirements of the Supreme Ordinance;
 - (3) Authorizing a distribution to the Tribal membership of Tribal funds,
 - (4) Enacting legislation or an ordinance, and
 - (5) Any action designated a major action by a majority vote the Council.
- (b) Identification of a Major Action. Major actions shall be identified upon

submission of the action for Council's consideration. An action may be identified as a major action by the person submitting the action, by the Tribal Chairperson, or by the Tribal Vice-Chairperson.

- (c) Process for a Major Action. Tribal Council shall designate one of the following processes to decide upon a major action.
 - (1) Approve a major action by at least five members of the Tribal Council, including a vote by the Tribal Chairperson if needed.
 - (2) In accordance with the Constitution Article XI, Section 2, and by a vote of at least five members of the Tribal Council, including a vote by the Tribal Chairperson if needed, refer a major action to the Tribal voting membership by directing at least 30 days in advance that said measure be placed on the ballot at the next annual election or by calling for a special election.
 - 3) Public Hearing. Legislation and ordinances must be referred to public hearing pursuant to the Tribe's public hearing ordinance prior to being enacted by a vote of the Tribal Council. Tribal Council may but is not required to refer all other major actions to public hearing in accordance with the Public Hearing Ordinance or an alternative process identified by Council at the time the action is referred.

CHAPTER 2. STANDARDS OF CONDUCT FOR ELECTED OFFICIALS

SECTION 6201. Standards of Conduct

Tribal elected officials must adhere to the standards of conduct stated in this section. The standards stated are not considered to be comprehensive and Tribal elected officials may be held to additional appropriate standards. If an elected official is uncertain as to whether an action would violate these standards of conduct, the elected official shall be responsible for seeking clarification from the Tribal Council before engaging in such activity.

- (a) Elected officials hold their official positions as a public trust with a fiduciary responsibility to the Tribe.
- (b) Elected officials shall make no commitments or promises purporting to bind the Tribe without appropriate authorization under the laws and policies of the Tribe.
- (c) Elected officials shall not use their official position or office to obtain financial gain or anything of substantial value for the private benefit of the elected official or their immediate family, or for an organization with which the elected official is associated.
- (d) Elected officials shall not utilize the Tribe's resources and property for an unauthorized use.
- (e) Elected officials shall not use or attempt to use their official position in a manner that could place their personal or political interests before that of the

Tribe. Moreover, elected officials should not act in a manner which appears to place their personal or political interests before that of the Tribe. Elected officials shall be free to maintain and pursue their unique positions as an elected official.

- (f) Elected officials shall treat all employees of the Tribe in a professional and businesslike manner. Elected officials shall not threaten or intimidate any employee, including in reprisal for the employee acting within the scope of that person's employment duties and authority.
- (g) Elected officials shall not give preferential treatment to any private person or organization outside of Tribal laws and policies.
- (h) Elected officials shall not solicit or accept, directly or indirectly, anything of value in return for introducing a resolution or ordinance, casting a vote in a certain way, or otherwise influencing any decision of the Tribal government. Elected officials may give and receive gifts in accordance with traditional Yurok Tribal practices, ceremonies, honorings, or giveaways to the extent such gifts are not meant to unduly influence any decision of the Tribal government.
- (i) Elected officials shall not intentionally use or disclose information gained in the course of, or by reason of, the elected official's position or activities in any way that could result in the receipt of anything of value for the elected official or for their immediate family, or for any other person, if the information is not in the public domain.
- (j) Elected officials shall not commit perjury before any tribal court, board, committee, commission, or other tribal or non-tribal governmental entity.
- (k) Elected officials shall not intentionally or otherwise neglect their official duties, including those duties detailed in Chapter 2 of this ordinance.
- (l) Elected officials, due to the Tribal Council's potential appellate role in grievances, whether it is an employment or private grievance, shall not discuss or otherwise involve themselves in any issue which may or could be before them for a decision under the grievance or complaint procedures.
- (m) Elected officials shall not lobby any group or individual to file a complaint against another elected official.
- (n) Elected officials shall not employ, with the Tribe's funds, any unauthorized person who does not perform duties commensurate with such compensation, and shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.
- (o) Elected officials shall treat each other with the respect and professionalism due elected officials. Elected officials maintain the ability to raise issues and concerns, but have a responsibility to raise any such issue in an appropriate manner.
- (p) Elected officials shall not contact for Tribal matters any outside legal counsel without proper authorization.

- (q) An elected official, if uncertain whether a potential activity being contemplated by that individual is a violation of this ordinance, shall seek guidance from the Ethics Review Board or Council.
- (r) Elected officials shall raise any potential violations of this ordinance to the attention of the Ethics Review Board or Council.
- (s) Council shall impose sanctions and penalties for violations of this section in accordance with Chapter 7.

SECTION 6202. Drug Testing for Elected Officials

- (a) Purpose. The purpose of drug testing of elected officials is to establish, maintain, and ensure, in accordance with the Tribe's general principle of zero tolerance, that elected tribal officials exercising the authority vested in them as a matter of public trust shall be in an environment free from the abuse of alcohol, illegal drugs, prescription drugs, and any other controlled substance.
- (b) Drug Testing Applies to All Elected Officials. The Tribe prohibits the abuse of alcohol, illegal drugs, prescribed drugs, and any other controlled substances by any elected official at any time whenever exercising or performing official duties. Further, the Tribe prohibits the unlawful manufacturing, distributing, dispensing, transporting, possessing, or use of a controlled substance without a medical prescription by any elected official whenever exercising or performing official duties. The Tribe shall not recognize state laws purporting to authorize the use of marijuana for medical or other purposes.
- (c) Drug Testing. An elected official upon election to office shall submit within 30 days of being sworn in to office to testing for alcohol and drug use.
 - (1) Subsequent to the initial testing for alcohol and drug use, each elected official shall be subject to random testing a minimum of two times each year or once each half year.
 - (2) Refusal to submit to medical testing for alcohol or drug use or the positive result of such a medical test shall be deemed to be a violation of this policy.
 - (3) Random drug testing shall be conducted pursuant to industry standards or Tribal selection procedures.
- (d) Violation of Drug Testing.
 - (1) Any elected official deemed to be in violation of this section shall participate in a drug and alcohol abuse assistance or rehabilitation program which shall be the financial responsibility of the elected official.
 - (2) If an elected official is deemed to be in violation of this section, the Council within 30 days shall publish notice of such violation in the Tribal newsletter and send a letter to all Tribal households. The constituents, pursuant to the Constitution Article X, shall determine if any further action may be required of the elected official.

- (3) The Ethics Review Board shall receive notice should an elected official violate this section.
- (4) Any elected official found in violation of this section shall be subject to the following sanctions:
 - (A) For the first offense: loss of driving privileges, including use of a tribal vehicle or ability to receive mileage reimbursement, and loss of credit card, honorarium, and other privileges for a period of no less than six months; loss of travel privileges for no less than one year; random drug and alcohol testing at least once a month for the remainder of the elected official's term; and completion of a drug and alcohol assistance or rehabilitation program.
 - (B) For the second and subsequent offenses, permanent loss of driving, credit card, honorarium, travel and other privileges and random drug and alcohol testing at least once a month while in office, regardless if elected to a subsequent term.
 - (C) For each offense, be subject to a monetary sanction of \$2,500.
- (e) Acknowledgement of Drug Testing. Elected officials shall acknowledge in writing that at all times during the performance of their official duties they shall conform to the requirements of this section. Further, elected officials shall acknowledge in writing that violation of this section may result in removal from office in accordance with Article III, Section 5 and Article X, Section 1 of the Constitution.
- (f) Superiority of Constitution. Nothing in this ordinance shall supersede the mandate of Article III, Section 5(d) or Article X, Section 1 of the Constitution.

SECTION 6203. Voluntary Admittance to a Drug Treatment Program

Elected officials are encouraged to seek counseling regarding any concerns they have relating to alcohol or drug abuse. A self-referral to a drug treatment program will not be considered evidence of any violation of Section 6202 or subject the elected official to the disciplinary procedures of that section. The cost of any program of rehabilitation in which the elected official participates shall be the financial responsibility of the elected official. An elected official's driving, credit card, honorarium, and other privileges may be suspended by the Council during the term of the treatment if the Council determines such action is necessary to protect Tribal interests.

SECTION 6204. Mandatory Meeting For Yurok Tribal Council

The Council is authorized by Article IV, Section 5(i) of the Constitution to make rules governing mandated meeting policies for operation of Council business.

- (a) Mandatory Attendance. Mandatory attendance is required at all Council meetings and acceptance of an elected position to the Council constitutes acknowledgement and acceptance of this requirement. However, it is also acknowledged that illness, natural disasters, regular employment, scheduled vacation, other authorized Council business, bereavement, tribal ceremonies, pre-scheduled doctor appointments, or emergencies may prevent a Council member from attending a meeting in person.
- (b) Failure to Attend, Late Arrival, and Early Departure. A Council member shall be automatically suspended from non-constitutional Council duties and subject to monetary sanctions in accordance with subsection (g) for non-attendance at three consecutive regularly scheduled Council meetings, or at four such meetings per year, for reasons not excused under subsection (c). Such Council member shall be reinstated by a majority vote of Council, upon presentation of adequate assurances of attendance. Arriving late to or leaving early from a duly scheduled meeting for a non-excused absence shall constitute non-attendance.
- (c) Excused Absences. A Council member shall be excused from attending a Council meeting for reasons related to illness, natural disasters, regular employment, scheduled vacation, other authorized Council business, bereavement, tribal ceremonies or emergencies. All attempts should be made to schedule medical appointments on non-meeting days. If a medical appointment must be scheduled on a meeting day, then the Council member must provide proof of such appointment.
- (d) Vacation. Council members are authorized to take no more than 30 days of vacation per calendar year. Attendance at tribal ceremonies shall not count against such vacation days.
- (e) Notification of Absence. Council members are responsible for notifying Tribal Support staff of an absence. As soon as is known or reasonably feasible, a Council member must inform the Council or Council Support staff no later than one half hour in advance of a meeting when the Council member will arrive more than 15 minutes late to a meeting, will depart early from a meeting, or will be absent from a meeting.
- (f) Notice of Non-attendance. If non-attendance by a Council member persists to the detriment of the Tribe, notices will be mailed by the Council to that Council member's constituents.
- (g) Violations. A Council member in violation of this section shall be subject to a monetary fine based on an hourly amount of \$20.
 - (1) If a Council member is late or departs early, the amount of time absent shall be rounded up to the nearest hour and that Council

member's honorarium shall be automatically reduced by such hourly amount for each absence.

- (2) If a Council member is absent for the entire day, the Council member's honorarium shall be automatically reduced by 8 hours.

SECTION 6205. Use of Tribal Vehicles for Elected Officials

- (a) General Guidelines. Any person operating a vehicle is responsible for that person's and others' safety. Tribal vehicles shall be operated in a professional and courteous manner and shall be maintained in a clean and safe condition. Any person operating a Tribal vehicle shall obey all laws, regulations, and Tribal policies.
 - (1) An elected official who will operate a Tribal vehicle shall read and comply with all provisions identified in the Yurok Tribe's Vehicle Use Policy, including the use of seat belts.
 - (2) An elected official shall not permit any person who is not an elected official or Tribal employee to be carried in any Tribal vehicle in which the elected official is the driver or passenger, except in emergency situations. Exceptions may be allowed for immediate family members, Tribal members, or other authorized persons when reasonably associated with Tribal business or Tribal community service.
 - (3) An elected official shall provide the Fiscal Department a copy of the elected official's driver's license prior to driving a Tribal vehicle.
 - (4) Tribal vehicles shall only be used for Tribal business and Tribal community service. Elected officials shall not use a Tribal vehicle for unreasonable personal business or convenience. Incidental stops to and from Tribal meetings or Tribal business are not considered personal use. Use of a Tribal vehicle within a 15 mile radius per day shall establish a rebuttable presumption that the use was reasonable. Alleged abuses of vehicle privileges shall be reviewed on a case by case basis.
 - (5) An elected official shall immediately report any change in their driving record to the Fiscal Department.
 - (6) Tribal vehicles generally shall not be parked overnight at an elected official's place of residence. Exceptions are allowed for elected officials who are assigned a vehicle.
 - (7) An elected official shall always lock the Tribal vehicle before leaving it unattended and should not leave valuables in an unattended Tribal vehicle. An elected official is financially responsible if the elected official locks the keys in the Tribal vehicle.
 - (8) An elected official operating a Tribal vehicle is responsible for any fines or penalties from traffic, parking, or other citations. Such an operator shall be charged an amount equal to the Insurance Policy

deductible if the operator is negligent. Examples of negligence include backing a vehicle without ensuring the area is clear, exceeding the speed limit, and parking where it is unsafe for a vehicle, such as a construction area or prohibited parking space.

- (9) An elected official shall immediately notify the Fiscal Department GSA Technician of any mechanical or operational problems with a Tribal vehicle, or any accident involving the Tribal vehicle, when the elected official operates the Tribal vehicle.
- (10) An elected official operating a Tribal vehicle in the case of an accident shall complete an accident report immediately after the accident. Such an operator shall be charged an amount equal to the Insurance Policy deductible if the operator fails to properly complete the accident report and any required alcohol and drug test.
- (11) An elected official is responsible for ensuring proper maintenance and service of any Tribal vehicle assigned to that elected official.
- (12) An elected official operating a Tribal vehicle is responsible for asking a business if they accept a GSA vehicle credit card before making any purchases for the Tribal vehicle. Such an operator is responsible to pay for any purchases made from a business that does not accept the GSA vehicle credit card and GSA will not reimburse the Tribe or the operator for these purchases.
- (13) An elected official shall not make personal charges on a GSA vehicle credit card.
- (14) Smoking, drugs, and alcohol are prohibited in any Tribal vehicle.
- (15) Animals are prohibited in any Tribal vehicle, except for service animals.
- (16) An elected official shall not use a cell phone while operating a Tribal vehicle, unless the operator utilizes a hands-free device. If a cell phone must be used, the operator must pull off to a safe area prior to using the cell phone.
- (17) An elected official shall not authorize any person to operate a Tribal vehicle except in cases of fatigue, illness, or other emergencies. In those cases, the elected official may authorize a person with a valid state or federal driver's license to operate the vehicle, but the elected official must be in the Tribal vehicle while that person is driving. An exception exists for Tribal employee use of a Council member's Tribal vehicle in compliance with the Tribal employee vehicle use policy.
- (18) An elected official shall turn in all Tribal vehicle logs and receipts to the Fiscal Department within 5 days at the end of each month.
- (19) An elected official shall not allow a firearm in a Tribal vehicle unless the elected official is authorized by majority vote of Council and complies with applicable Tribal, state, and federal law.

- (b) Committee Accident Review. A committee comprised of the Yurok Tribal Chairperson or Vice-Chairperson, an appointed Council member and a representative from the Office of Tribal Attorney will review accident reports involving a Council member and determine whether the Council member was negligent or at fault. The Council member involved in the accident shall be provided an opportunity to present evidence and testify. The committee shall report its determination to the Council. All Council member vehicle accidents shall be reported in the Yurok newsletter.]
- (c) Driver Qualifications. An elected official shall comply with, and shall not authorize any person to operate a Tribal vehicle unless that person complies with, the following requirements:
- (1) have in possession while operating a Tribal vehicle a valid tribal, federal, or state driver's license of a class appropriate for the vehicle that is being used;
 - (2) be at least 21 years of age;
 - (3) have a clear driving record, defined as no current two-point count vehicle code violation under California law or equivalent; and
 - (4) be an elected official or an employee of the Yurok Tribe, except in compliance with this subsection (a)(18).
- (d) Violations. Alleged violations of this section shall be referred to the Ethics Review Board. Any violation of this section may result in loss of driving privileges. An elected official who fails to turn in Tribal vehicle logs for two consecutive months shall have their vehicle privileges suspended until all logs and receipts are current. If an elected official violates paragraph (a)(18) of this section, the elected official shall immediately lose all vehicle privileges. If an elected official loses driving privileges, that person is not eligible for mileage reimbursement while privileges are suspended.

SECTION 6206. Tribal Credit Card Use for Elected Officials

- (a) General Guidelines. Tribal credit cards are to be used for authorized Tribal business only and personal purchases are prohibited. The purchase of food, beverages, movies, and other miscellaneous expense is prohibited.
- (b) Use of Tribal Credit Card for Hotel. A Tribal credit card may be used to guarantee an hotel room. An elected official who cancels an hotel reservation placed on a Tribal credit card is responsible for getting a cancellation number. If the elected official fails to get a cancellation number or cancel an hotel reservation within the appropriate time frame, the elected official shall be responsible for any charge incurred, which may be deducted from the elected official's honorarium or paycheck.
- (c) Tribal Credit Card Receipts. An elected official shall turn in all Tribal credit card receipts for that elected official's card to the Fiscal Department within 10 working days of incurring the charge or returning from travel. The elected official shall be responsible for any Tribal credit card issued to the elected official and for any charges billed to that card.

- (d) Use of Tribal Credit Card for Other Travelers. An elected official shall not use a Tribal credit card for another traveler and shall be responsible for any charges incurred by that traveler, except if that traveler is a Tribal elected official or employee. If the traveler is a Tribal elected official or employee, then that traveler is responsible for any charges incurred and for submitting required receipts to the Fiscal Department.
- (e) Lost or Stolen Tribal Credit Card. An elected official shall immediately report the loss, theft, or unauthorized use of that elected official's Tribal credit card to the Fiscal Department so that the card can be cancelled.
- (f) Emergency Hotel Reservations. An elected official who must travel long distances for a Council meeting or Tribal business is authorized to use a Tribal credit card to secure a local hotel reservation when severe weather conditions exist and there is a late meeting or a meeting or out of town travel the next morning. In such a case, the elected official shall notify the Chairperson, Vice-Chairperson or Executive Director within 24 hours. The elected official shall always request the federal rate, if available, when securing the hotel reservation.
- (g) Emergency Use of Credit Card. An elected official may use a Tribal credit card in the case of an unanticipated extended stay for reasonable expenses related to that stay, including food expenses up to the GSA per diem rate for that location.
- (h) Violations. Alleged violations of this section shall be referred to the Ethics Review Board. Any elected official in violation of this section shall be subject to loss of credit card privileges for 3 months and monetary fine of \$300 for a first offense, loss of credit card privileges for 1 year and \$500 for a second offense, and loss of credit card privileges for the remainder of official's term and \$1,000 for a third offense. An elected official who has credit card privileges reinstated upon subsequent election shall be subject to permanent loss of credit card privileges and a \$1,000 fine for any subsequent violation. The elected official shall be responsible for submitting any receipts and any unauthorized charge incurred may be deducted from the elected official's honorarium or paycheck. Any violation shall be reported in the Yurok Tribe newsletter.

SECTION 6207. Use of Tribal Equipment for Elected Officials

- (a) Purpose. The purpose of this section is to protect all Tribal electronic equipment and establish a standard policy for the use of Tribal equipment.
- (b) Loaning Tribal Equipment for Non-Tribal Use. An elected official with custody of Tribal equipment shall not authorize the use of such equipment by third parties unless all Tribal ordinances and policies are adhered to and the equipment is on the list of Tribal equipment that may be loaned.
- (c) Transfer of Tribal Equipment. If an elected official transfers Tribal equipment to a Tribal employee or other elected official, the elected official shall immediately send written notification to the Fiscal Department. The

notification shall include a description of Tribal equipment transferred, the equipment number, and where the equipment was transferred.

- (d) Location of Non-portable Tribal Equipment. An elected official shall maintain all non-portable Tribal equipment in the elected official's designated work area and shall secure such equipment prior to leaving the designated work area.
- (e) Use of Portable Tribal Equipment. When duties require the use of portable Tribal equipment away from the designated work area, the elected official shall be responsible for the security and protection of the Tribal equipment at all times.
- (f) Loss or Damage to Tribal Equipment. In the event that an elected official has Tribal equipment lost, stolen, or damaged, that official immediately must file a report with the Fiscal Department. The report shall contain a description of what happened to the equipment, the date that it happened, the Tribal equipment number, and the serial number of the equipment. The report must be signed by the elected official responsible for the equipment.
- (g) Violation. Alleged violations of this section shall be referred to the Ethics Review Board. An elected official found in violation of this section, including due to loss, theft or damage to Tribal equipment, and determined to have treated the Tribal equipment inappropriately or in a reckless manner shall be disciplined according to this ordinance and may be required to pay for the cost of repairing or replacing the Tribal equipment.

SECTION 6208. Decorum at Council Meetings.

During Council meetings, Council members shall preserve order and decorum. Council members shall confine remarks to the question under debate, avoiding all indecorous or offensive language or reference to personalities. No Council member shall, by conversation or otherwise, delay or interrupt proceedings or disturb any other Council member while speaking. Council members shall obey the rules of the Council and a decision of the presiding officer or of the Council on questions of order or practice or interpretation of the rules.

CHAPTER 3. COUNCIL ROLES AND RESPONSIBILITIES

SECTION 6301. Yurok Tribal Chairperson

The Chairperson shall be the chief executive officer of the Tribe, and in that capacity shall have the following authority and duties as detailed in Article IV, Section 1 of the Constitution:

- (a) To preside over all meetings of the Council and the Tribal Voting Membership, and to vote only in case of a tie;
- (b) To call special meetings of the Council or the Tribal Voting Membership as necessary with the request of Council members or Tribal members as provided in this Constitution;
- (c) To faithfully implement and enforce the legislative enactments and policies of the Yurok Tribe;
- (d) To execute such contracts, agreements, and other documents on behalf of the Yurok Tribe as have been duly authorized by the Council in the exercise of authority delegated by this Constitution, or by the Tribal Voting Membership;
- (e) To act as the principal spokesperson and representative for the Tribe in its dealings with all other governmental and non-governmental entities, or to delegate such duties to other Tribal officers or officials as may be authorized by the Council;
- (f) To appoint persons to serve in unelected positions within the executive or judicial branches of the Tribal government and to advisory committees that have been created by the Council, with the advice and consent of the Council, and otherwise to implement such personnel policies and procedures as may be established by the Yurok Tribal Council. Efforts will be made to balance representation of the Advisory Committees between on and off Reservation.
- (g) To take such actions, including removal and/or barring of persons from Tribal lands, as may be necessary to safeguard the health and/or safety of the Tribe or its natural resources from imminent danger pending action by the Council, provided, however, that the Chairperson first shall have attempted to convene a special meeting of the Council on the issue. If such emergency action was not preceded by a meeting of the Council authorizing such action, the Chairperson shall, within 48 hours after taking such action, convene a special meeting of the Council at which the only item of business shall be responding to the emergency. If the Council declines to ratify the Chairperson's emergency action, or if no meeting is held within the time allowed therefore, said action shall cease to have any force or effect upon the earlier of the Council's vote not to ratify such action or the expiration of 48 hours after the action.
- (h) To prepare and present to the Council for approval, no later than 120 days prior to the beginning of each fiscal year, a proposed annual Tribal financial

plan that sets forth in detail the then current assets of the Yurok Tribe, the sources and amounts of all anticipated Tribal revenues for the year, and a Tribal budget for said year.

SECTION 6302. Yurok Tribal Vice-Chairperson

The Vice-Chairperson shall have the following authority and duties, as detailed in Article IV, Section 2 of the Constitution:

- (a) To preside over meetings of the Council or Tribal Voting Membership in the absence of the Chairperson;
- (b) To act in place of the Chairperson as the spokesperson or representative of the Yurok Tribe upon written delegation by the Chairperson or the Council;
- (c) To assume the office and duties of the Chairperson upon the Chairperson's death, resignation, or removal, or a determination by a two-thirds majority vote of a quorum of the Council that the Chairperson has become permanently or indefinitely incapacitated to an extent that prevents the Chairperson from fulfilling the obligations of the office.

SECTION 6303. Yurok Tribal Council

- (a) Except as otherwise reserved to the Tribal Voting Membership by the Constitution, the legislative power of the Tribe is delegated by the Tribal Voting Membership to the Council, and in the exercise thereof the Council shall have the authority to enact legislation, rules and regulations not inconsistent with this Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to the Constitution; administer and regulate affairs, persons and transactions within Tribal Territory; enact civil and criminal laws; promulgate policies regarding elected Tribal officials' and Tribal employees' use, possession or sale of illegal drugs, and the unlawful use or abuse of legal drugs and controlled substances; manage Tribal lands and assets and appropriate and authorize the expenditure of funds owned by or available to the Yurok Tribe; charter and regulate corporations and entities of all kinds; provide for the exclusion of persons and/or entities from Tribal affairs and/or Tribal Territory under appropriate circumstances; and obtain and generate revenue for Tribal purposes through taxation and fees upon income, property, transactions and sales within Tribal Territory; provided however, that laws that affect the fundamental rights of Tribal members, such as taxation of Tribal members, and the Waiver of claims issue shall not be effective until approved in a referendum among the Tribal Voting Membership pursuant to Article XI of this Constitution. Settlement Account Trust Funds, including earned interests, from the Hoopa-Yurok Settlement Act of 1988, shall not be used until the Council has prepared a proposal for its intended use and received a majority vote of approval from the Tribal Voting Membership.
- (b) The Council shall fix and prescribe salaries and allowances for all appointed officials and the employees of the Yurok Tribe.

- (c) The Council shall prescribe salaries and allowances, if any, for all elected officials of the Tribe. No setting or adjustment of salaries and allowances shall be done without at least thirty (30) days' notice that it will be on the Council agenda. No increase in compensation shall be effective until one year from the date of approval has passed.
- (d) The Council shall by ordinance provide a system for assuring the reasonable and appropriate access by tribal members to tribal records and meetings.
- (e) The Council shall by ordinance within 90 days of the election of the first Yurok Tribal Council under this Constitution, prescribe enrollment procedures and establish an Enrollment Committee whose members shall be appointed by the Chairperson with the advice and consent of the Council.
- (f) The Council shall by ordinance prescribe election procedures for Tribal elections. The Council shall by Ordinance establish an Election Board whose members shall be appointed by the Chairperson with the advice and consent of the Council.
- (g) The Council shall act upon all appointments requiring its confirmation within 30 days.
- (h) The Council shall have the authority to act on behalf of the Tribe to acquire, lease, assign, and manage all tribal property, but shall not sell any tribal land, nor lease tribal land for a period of 20 years or more, unless approved by a referendum submitted to the voting membership pursuant to Article XI of the Constitution.
- (i) The Council shall by ordinances- prescribe a Drug Testing policy for Council Members, a Conflict of Interest policy, and a Mandated Meeting policy for operation of Council business. These ordinances shall be adopted within one year of installation of the Tribal officials elected in the initial Tribal election.
- (j) No legislation, ordinance, or other major action shall be enacted unless approved by at least five members of the Council, including a vote by the Tribal Chairperson if needed.
- (k) The Tribal council district representatives shall conduct quarterly meetings within their respective districts.
- (l) Council members shall regularly and punctually attend scheduled meetings, work assignments, conferences, workshops, seminars, or other official Tribal government related meetings or activities.

SECTION 6304. Yurok Tribal Council Liaison

(a) Purpose. A Council liaison functions as the point person for a department, program, or issue and represents that department, program or issue within the Council and to outside organizations.

(b) Appointment. In accordance with Article IV, section 1(e) of the Constitution, the Chairperson shall delegate authority as the principal spokesperson and

representative for the Tribe for certain departments, programs, and issues in the following manner:

(1) At the first regularly scheduled meeting of the Council following the election of a Council member, or as soon thereafter as practicable, the Chairperson shall call for nominations for open Council liaison positions.

(2) The Chairperson shall prepare a list of nominees for open liaison positions and present it to the Council within 30 days of the call for nominations.

(3) Upon presentation of the nominees to the Council, the Council shall either consent or dissent to each individual nominee for a Council liaison position.

(c) Term. A Council liaison shall serve for a term of three years, or until the liaison's service on the Council ends, whichever is less. A new liaison shall serve for two and a half years with a six month training period.

(d) Functions and Duties. The functions and duties of a Council liaison include, but are not necessarily limited to, the following:

(1) A Council liaison shall report to the Council at the next Council meeting on respective assignments and meetings that the Council liaison attended.

(2) In accordance with the consent and directions of the Council, a Council liaison shall clarify the Tribal Council's position and direction regarding various issues.

(3) A Council liaison shall abide by and carry out directions given by the Council.

(4) A Council liaison shall keep abreast of issues and important reading regarding the department, program, or issue.

(5) A Council liaison shall review proposals to other agencies for the respective department, program, or issue.

(6) A Council liaison shall attend all important meetings regarding the department, program, or issue.

(7) A Council liaison shall avoid involvement in staff conflict.

(8) A Council liaison shall use best effort to work as a team for the benefit of the Tribe.

(9) If a potential issue of concern arises within a department or program regarding the Council liaison's direction, the Council liaison shall bring the issue back to the Tribal Council for further clarification.

CHAPTER 4. CONFLICT OF INTEREST

SECTION 6401. Purpose

The purpose of this conflict of interest chapter is to require accountability of elected officials in exercising the authority vested with them as a matter of public trust and to protect the Tribal membership from government decisions and actions resulting from, or affected by, undue influence or conflicts of interest. Elected officials must:

- (a) Treat their positions as a matter of public trust, only using the power and resources of the Tribal office to advance Tribal interests and not to attain personal benefit or promote private gain.
- (b) Ensure that the Tribal government is conducted openly and honestly and in a manner that allows the Tribal constituency to hold Tribal officials accountable for their actions.
- (c) Abstain from using their office or position in a manner which could place, or appear to place, their personal interest before that of the Tribal government and its members.

SECTION 6402. Intent

It is the intent of the Council that the provisions of this chapter be construed and applied in each instance, so as to accomplish the purposes of this chapter.

SECTION 6403. Principles

Elected officials shall:

- (a) Use their powers in a manner consistent with the Constitution and applicable Tribal laws, rules, policies, and procedures.
- (b) Refrain from using Tribal facilities, resources, or personnel to perform personal business.
- (c) Not solicit money, favors, or gifts for their own personal gain.
- (d) Not provide, offer, or exercise official influences in exchange for money, valuables, or the promise of employment.
- (e) Not use Tribal resources and power of office to advance personal or political interests.

SECTION 6404. Specific Prohibitions

- (a) Prohibited Actions. Elected officials shall not engage in acts which are illegal, involve an abuse of power, or involve actions and activities that bring discredit or disrespect on the Tribe. These acts may include, but are not necessarily limited to, the following:
- (1) Misappropriation or misuse of Tribal funds, property, employees, or agents;
 - (2) Concealing, removing, altering, mutilating, or destroying Tribal records or documents;
 - (3) Committing perjury or a fraud;
 - (4) Intentionally or knowingly providing false information or misrepresenting a Tribal position that causes harm to Tribal members;
 - (5) Intentionally misrepresenting oneself as acting on behalf of the Tribe without authorization; and
 - (6) Knowingly misrepresenting the Tribe or a position the Tribe has taken.
- (b) Violations. Any elected official in violation of this section shall be subject to censure, as described in the sanctions and penalties chapter of this ordinance, and to monetary sanctions of \$1,000 for a first offense, \$2,000 for a second offense, and \$3,000 for a third and subsequent offenses. Alleged violations of this section shall be referred to the Ethics Review Board.

SECTION 6405. General Prohibitions

- (a) Tribal Interests Are Paramount. An elected official shall not use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing, private economic gain of the elected official, or of any special business interests with which they are associated, before those of the Tribal membership, whose paramount interests their office is intended to serve.
- (b) Actual or Apparent Impropriety Prohibited. An elected officials shall avoid any action, whether or not specifically prohibited, which could result in, or create the appearance of:
- (1) using public office for private gain;
 - (2) giving preferential treatment to any special interest, organization, or person;
 - (3) impeding governmental efficiency or economy;
 - (4) losing or compromising complete independence or impartiality of action;
 - (5) making a government decision outside official channels; or

- (6) adversely affecting the confidence of the Tribal membership in the integrity of the Tribe.

SECTION 6406. Use of Confidential Information for Private Gain

An elected official shall not use or disclose confidential information gained in the course of, or by reason of, their official position or activities to further their own economic or personal interest or that of another person or entity.

SECTION 6407. Restrictions Against Incompatible Interests or Employment

Subject to the restrictions and conditions set forth in this policy, elected officials are free to engage in lawful financial transactions to the same extent as the general public. The Council may, however, adopt further restrictions upon such transactions or employment as authorized herein, and by other applicable Tribal law or policy, in light of special circumstances or particular duties.

An elected official shall not:

- (a) hold direct or indirect financial or other economic interests, nor engage in such other employment or economic activity which involves inherent substantial conflict, or the appearance of having such substantial conflict, with responsibilities and duties as elected officials;
- (b) engage in, directly or indirectly, financial or other economic transactions as a result of, or primarily depending upon, information obtained through public office; and
- (c) acquire any economic or other financial property, contractual, or other economic interest at a time when the elected official believes, or has reason to believe, that it will directly and substantially affect, or be so affected by, the elected official's official actions or duties.

SECTION 6408. Abstention from Official Action

- (a) When an elected official is required to take official action on a matter in which such elected official has a personal economic interest, the elected official should first consider eliminating that interest. If elimination of that interest is not feasible nor required under this ordinance, the elected official shall:
 - (1) prepare and sign a written statement describing the matter requiring action and the nature of the potential conflict, as soon as such elected official is aware of such conflict, and shall deliver copies of that statement to the responsible party for inclusion in the official record of any vote or other decision or determination; and
 - (2) abstain from voting, sponsoring, influencing, or in any manner attempting to influence any vote, official decision, or determination which would favor or advance the elected official's personal economic interest in such matter.

- (b) Unless otherwise provided by applicable law, the abstention by such elected official from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary to take action or vote upon such matter.
- (c) In the event that an elected official's participation is otherwise legally required for the action or decision to be made, such person and the presiding official requiring such participation shall fully report the occurrence to the Council.

SECTION 6409. Tribal Government Contracts; Restrictions and Bid Requirements

An elected official and any member of such person's immediate family shall not be a party to, nor have an interest in, the profits or benefits of any governmental contract, program, service, or economic development of the Tribe or of any investment of funds of the Tribe, unless the contract or the investment meets the following requirements:

- (a) The contract is let by notice and competitive bid or procurement procedures as required under all applicable laws, rules, regulations, and policies of the Tribe, for necessary materials or services for the governmental agency or entity involved;
- (b) The continuous course of business commenced before the elected declared candidacy for the current term of office;
- (c) The entire transaction is conducted at arm's length, with the Council's full knowledge of the interest of the elected official or immediate family member;
- (d) The elected official has taken no part in the determination of the specifications, deliberations, or decisions with respect to the public contract;
- (e) The elected official is not a member, office holder, employee, or otherwise directly associated with the same entity primarily responsible for letting, performing, receiving, regulating, or otherwise supervising the performance of the contract.

SECTION 6410. Limits on Official Action and Participation; Compliance with Yurok Laws and Traditions

- (a) Elected officials shall not take any official action or participate in any decision that involves immediate family or in which elected officials may have a substantial financial interest.
- (b) Elected officials shall regulate their extra-governmental activities to minimize the risk of conflict with the duties of their elected office.
- (c) Elected officials shall respect and comply with the laws and Yurok traditions of the Tribe and shall at all times act in a manner that promotes confidence in the honesty and impartiality of the government of the Tribe by resisting any improper influence of family or other personal interests, avoiding the use of the prestige or resources of the elected or appointed office to advance

private interests, and not employing any special influence or being specifically influenced.

- (d) Any violation of this section shall be subject to the sanctions and penalties chapter as provided in this ordinance.

SECTION 6411. Confidentiality

- (a) An elected official shall not disclose materials presented, discussed, or considered in executive or closed session.
- (b) Elected officials shall respect the privacy of Tribal employees, clients, and members and shall not use or disclose confidential information gained in the course of, or by reason of, their official position.
- (c) With the exception of personnel matters and that information related to the Tribe's legal rights, commercial interests, or privileges against compelled disclosure, all records, transcripts, and other documents in the possession of the Ethics Review Board and Tribal Secretary shall be public information.
- (d) Violations. Any violation of this section shall be subject to the sanctions and penalties chapter of this ordinance, and to monetary sanctions of \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for third and subsequent offenses. Any alleged violation of this section shall be referred to the Ethics Review Board.

SECTION 6412. Nepotism Prohibited

- (a) An elected official shall not employ, appoint, attempt to influence a hiring decision concerning, or otherwise cause to be employed, excluding reimbursement for mileage and per diem, any immediate family member for any position or contract associated with the Tribe or any paid board, committee, commission, or other Tribal governmental position.
- (b) An elected official shall respect and comply with Tribal laws and shall at all times act in a manner that promotes public confidence in the honesty and impartiality of the Tribe by resisting any improper influence by immediate family or other personal relationships and avoiding the use of the prestige or resources of the elected or appointed office to advance the private interests of immediate family or other close relationships.
- (c) Violations. Any alleged violation of this section shall be referred to the Ethics Review Board.

CHAPTER 5. PERSONNEL MATTERS

SECTION 6501. Recruitment of Qualified Tribal Employees

The Council desires to attract qualified employees, particularly Tribal members, to the Tribal work force. It is the desire of the Tribe to effectively compete with other employers for personnel who have the abilities and skills necessary to effectively achieve Tribal goals and render quality services to the Tribal membership.

SECTION 6502. Executive Office Responsibility for Personnel Matters

- (a) The Executive Office is responsible for oversight of the hiring, promotion, discipline, supervision and discharge of employees in order to carry out the operational work of the Tribe, in accordance with Tribal laws, ordinances and policies. To ensure personnel matters are handled fairly across the board, the Council maintains responsibility to review and approve policies for the Executive Office and other employees in carrying out personnel matters, and these policies should ensure that both the interests of the Tribe and the employees are protected and that an environment exists where employees can enjoy their work, feel secure in their positions, and make a positive contribution toward the goals of the Tribe.
- (b) The Executive Office is responsible for enforcing all approved policies and providing sufficient information to Council so that Council can make informed, intelligent decisions concerning Tribal policies.
- (c) Elected officials shall have no direct involvement in day-to-day personnel matters except as set forth in the ordinances of the Tribe and shall not become personally involved in employee matters. Elected officials shall leave all personnel matters to the Executive Office and shall only intervene when all other means of resolving personnel issues have failed. An elected official shall not, nor direct staff to, intervene, breach confidentiality, or hinder or taint any pending personnel matters.
- (d) The Executive Office shall inform the Tribal Council of any significant changes in personnel. Elected officials shall inform the Executive Office of any issues of concern or other information regarding Tribal staff as appropriate.
- (e) Violations. Any alleged violation of this section shall be referred to the Ethics Review Board.

SECTION 6503. Yurok Tribal Council Rights

The Council has the right to be informed of changes and may communicate with staff for the purpose of clarification of approved policies and to better understand the Tribal organization, how it functions, and how to improve the Tribe's policies when necessary.

The Council shall be provided copies of all approved policies in effect or proposed, and changes thereto, for its information and review. The Council may adopt procedures under

which it may require the approval of specific policies and may review any proposed changes to the personnel policies for consistency, particularly compliance with Tribal preference policies in hiring and advancement.

CHAPTER 6. ETHICS REVIEW

SECTION 6601. Ethics Review Board

The Yurok Tribe shall establish and fund an Ethics Review Board.

- (a) Composition and Terms. The Ethics Review Board shall be comprised of the Chairperson or Vice-Chairperson, two Council members randomly selected at the time a complaint is filed, two Yurok Tribal elders, a representative from the Office of Tribal Attorney, and a Yurok Tribal Court judge. Each Ethics Review Board member's service shall be limited to a specific complaint and only so long as that complaint is active, except that a Council member's service on the Board shall automatically expire with that person's service on the Council.
- (b) Requirements. Members of the Ethics Review Board shall maintain high moral standards and understand and respect Tribal values. No Ethics Review Board Member shall participate in any Board proceedings related to a complaint against that member.
- (c) Powers. The Ethics Review Board shall have powers as detailed in this subsection.
 - (1) The Board shall initiate, receive, review and investigate ethics complaints filed with the Ethics Review Board.
 - (2) The Board shall issue to the Council recommendations on sanctions or impeachment for complaints that the Board finds substantiated and worthy of Council consideration and that, when making a recommendation for impeachment to Council, is consistent with Article X of the Constitution of the Yurok Tribe Article X.
 - (3) With the exception of personnel matters and that information related to the Tribe's legal rights, commercial interests, or privileges against compelled disclosure, the Board shall schedule and conduct public ethics hearings involving alleged violation of this ordinance. Hearings shall be held within 21 days of service of notice of the allegations to the alleged violator.
 - (4) The Board shall not be bound by formal rules of evidence when conducting an ethics hearing, but must electronically record all such hearings.
 - (5) The Board may administer oaths to persons called to testify before the Board.
 - (6) The Board may issue subpoenas to compel the attendance and

testimony of witnesses or to produce any documents relevant to a matter before the Board.

- (7) The Board shall establish rules and procedures to conduct its own governance. Such rules and procedures, and any amendments, must be approved by a majority vote of the Council prior to taking effect.
 - (8) The Board shall hold in contempt any person who willfully disobeys any lawful order, finding, or decision of the Board.
 - (9) The Board shall dismiss any ethics complaint that the Board determines to be without merit upon a preponderance of the evidence.
 - (10) The Board may utilize the assistance of the Tribe's Office of the Tribal Attorney or independent legal counsel to provide legal advice during hearings and other matters before the Board.
 - (11) Members of the Board should not lobby any group or individual to file a complaint against an elected official and any complaint should be filed by the person or group who has the complaint.
 - (12) The Board may recommend amendments to this ordinance to the Council by a majority vote of a quorum at any duly noticed meeting of the Board.
 - (13) The Board may respond to any inquiry from an elected official by issuing an advisory opinion as to whether an action contemplated by the elected official would violate this ordinance, or by issuing an advisory opinion as to whether an action or situation exists that constitutes a potential violation of this ordinance.
- (d) Written Opinions. The Ethics Review Board shall issue an opinion or schedule a hearing concerning alleged ethics violation within 15 days of receipt of the complaint. If a hearing is held, the Board shall issue an opinion within 15 days of the hearing. Opinions issued by the Board shall include a brief discussion of information pertinent to the alleged ethics violation, the investigation, and other information, findings, and conclusions. The opinion shall include any recommendations to the Council, such as suggested sanctions or penalties.

SECTION 6602. Filing an Ethics Complaint

- (a) Eligibility. Any enrolled Tribal member or Tribal employee at least 18 years of age may file an ethics complaint alleging violations of this ordinance. Elected officials shall report any violation of this ordinance and such report will proceed as a complaint.
- (b) Filing Procedure. The complainant shall file the complaint with Council Support staff. Council Support staff shall provide the complainant a verification of receipt and forward copies of the complaint to the Ethics Review Board members.
- (c) Form of Complaint. The complaint must be in writing and the Ethics Review

Board may specify a standard complaint form. Contents of the complaint shall include, but not be limited to, the following:

- (1) Complainant's name, and official title, if any;
 - (2) Respondent's name and official title;
 - (3) Date(s) of the alleged violation;
 - (4) Specific alleged violations of the Yurok Tribal Ordinance;
 - (5) Supporting documentation, if any, substantiating and supporting the complaint;
 - (6) Name of any person who may be a witness to the complaint; and
 - (7) Signature of the complainant.
- (d) Improper Complaint. The Ethics Review Board shall not accept any complaint that is not properly filed, or is deemed insufficient by the Board.
- (e) Responding to Ethics Complaint. The Ethics Review Board shall serve the respondent with a copy of the complaint within 5 working days after the complaint is received by the Ethics Review Board. The respondent shall have 10 working days after receiving the ethics complaint to file a response to the alleged violations. If the Board determines that a complaint has merit, the Board shall proceed with the ethics investigation even if the respondent fails to file a response. The Board may, upon a reasonable demonstration of cause by the respondent, extend the 10-day deadline for filing a response, but an extension shall not be granted for more than 20 days from date on which the respondent is served with the complaint.
- (f) Statute of Limitations. The Ethics Review Board shall not consider any complaint alleging an ethics violation that occurred more than one year prior to the date alleged violation was discovered. Any such complaint shall be dismissed by Board.

SECTION 6603. Ethics Review Board Investigation and Hearing

- (a) Investigation. Upon the receipt of a properly filed ethics complaint, the Ethics Review Board shall proceed with an investigation in the following manner:
- (1) Conduct a formal meeting with the complainant.
 - (2) If agreed to by the respondent, conduct a formal meeting with the respondent.
 - (3) Issue subpoenas for any necessary witnesses or documents, as required.
 - (4) Interview witnesses for the complainant first and next the respondent, and review documents subpoenaed or provided by the parties.
 - (5) Determine the sufficiency of the ethics complaint.

- (6) If the ethics complaint is determined to be sufficient, schedule a formal ethics complaint hearing that is open to the public. The Ethics Review Board shall produce a written decision of any findings and conclusions of the hearing. The hearing shall ensure minimum standards of due process are met, including:
 - (A) Not less than 10 days written notice to the respondent of the hearing and any alleged violation;
 - (B) A brief opening statement and closing argument by the respondent;
 - (C) The presentation of relevant documentary or testimonial evidence by the respondent;
 - (D) The ability of the respondent to confront and cross examine any adverse witnesses;
 - (E) Any written decisions are based on a preponderance of the evidence; and
 - (F) The respondent is provided a copy of the written decision within 30 days of the hearing.
- (b) Council Member Representation During Proceedings. A Council member may be represented by independent counsel or an advocate in Ethics Review Board proceedings and such representative shall be permitted to speak for the Council member at the Council member's request.
- (c) Board Member Conflict of Interest. Ethics Review Board members who have a conflict of interest in an ethics complaint brought before the Ethics Review Board must immediately recuse themselves and shall not participate in the investigation or the formal ethics hearing. Failure of an Ethics Review Board member to recuse themselves due to a conflict of interest shall constitute grounds for immediate removal from the Ethics Review Board for the instant matter.
- (d) False, Frivolous, Malicious, or Insufficient Complaint. The Ethics Review Board shall dismiss any ethics complaint it determines to be frivolous, false, or filed with malicious intent. The Board shall notify both the complainant and the respondent of the Board's determination and may take any necessary and appropriate action under the Yurok Tribal Ordinance and Tribal laws, policies, and regulations to remedy the situation. Filing a false, frivolous, or malicious ethics complaint may subject the person filing the complaint to civil suit in Tribal Court by the elected official who is the subject of such a complaint.

The Board shall dismiss frivolous, false, and malicious complaints with prejudice. The Board has discretion to dismiss an insufficient complaint with or without prejudice.
- (e) Retaliation Prohibited. If, during the course of or after the investigation or hearing, the respondent retaliates against the complainant in any manner, the complainant shall immediately notify the Ethics Review Board in writing and

describe the form of retaliation. Upon determining that retaliation has occurred, the Ethics Review Board shall take necessary and appropriate action under the Yurok Tribal Ordinance and Tribal laws, policies, and regulations.

SECTION 6604. Forwarding of Complaint for Council Review

The Ethics Review Board shall forward any complaint deemed sufficient and the hearing report, as well as all other documentation formally compiled as a part of the investigation and hearing process, to the Council for review within 30 days of completing the hearing.

SECTION 6605. Council Action on Alleged Violations

- (a) Within 30 days of receipt of the complaint and formal documentation from the Ethics Review Board, the Council shall convene a review panel consisting of the entire Council, excluding the alleged violator.
- (b) Notice shall be sent out to Tribal members outlining the alleged violation and brief description of the process that was followed to determine the sufficiency of evidence of an alleged violation. This notice will be publicized in the Yurok Tribe newsletter.
- (c) The Council shall hear the alleged violation, review evidence compiled by the Ethics Review Board, and may conduct a de novo review. The alleged violator shall be given an opportunity to respond.
- (d) The Council shall find the violator either guilty or not guilty. At least five votes are required to find an elected official guilty of a violation.
- (e) If an elected official is found guilty, Council by majority vote shall impose a penalty in accordance with the provisions of this ordinance.

CHAPTER 7. SANCTIONS AND PENALTIES

SECTION 6701. Council-imposed Sanctions and Penalties

Council may impose the sanctions or penalties specified in this section for any violation of this ordinance upon recommendation of the Ethics Review Board, so long as such sanction or penalty does not otherwise violate the Constitution or Tribal law. These sanctions and penalties are in addition to any others specifically provided in any section of this ordinance or provided under the Constitution and any other Tribal law, policy or regulation.

Authorized Council-imposed sanctions and penalties include, but are not necessarily limited to, the following:

- (a) monetary sanction;
- (b) restitution;
- (c) suspension of driving, travel, credit card, and honorarium privileges; and
- (d) censure for good cause, including sending a letter to the constituency.

SECTION 6702. Monetary Sanctions

Monetary sanctions shall be automatically garnished from the elected officials honorarium upon a determination that a violation has occurred and a determination of the sanction amount. Where this ordinance does not otherwise identify specific monetary sanctions, such sanctions shall be imposed for any violation of this ordinance as follows:

- (a) For the first offense, \$100;
- (b) For the second offense, \$200;
- (c) For the third offense, \$300;
- (d) For the fourth and subsequent offenses, \$500.

SECTION 6703. Removal or Impeachment

- (a) If an elected official commits a violation that is an impeachable offense under Article X of the Constitution, the Ethics Review Board shall initiate and file an impeachment complaint with the Tribal Secretary.
- (b) An elected official may be removed from office pursuant to Article X of the Constitution and any other applicable Tribal law, policy, or regulation.

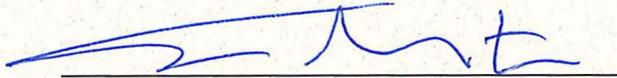
SECTION 6704. Use of Fines

All monetary fines collected for violations of this ordinance shall be designated for a Yurok Tribal Community Fund.

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

THE FOREGOING ORDINANCE, ENTITLED THE YUOK TRIBAL COUNCIL ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUOK TRIBAL COUNCIL ON SEPTEMBER 5, 2013, AT WHICH A QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY CONSENSUS IN ACCORDANCE WITH TRIBAL TRADITION AND ARTICLE V, SECTION 6 AND ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUOK TRIBE.

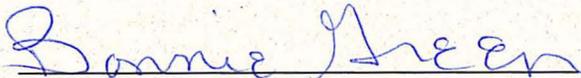
DATED THIS 5TH DAY OF SEPTEMBER 2013



Thomas P. O'Rourke, Sr., Chairperson

Yurok Tribal Council

ATTEST:



Bonnie Green, Secretary

Yurok Tribal Council