

Yurok Tribal Code, General Provisions and Administration

YUROK TRIBE 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 regulating the Yurok Tribal Council and to maintain and protect the public trust of the Yurok Tribe:

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GENERAL PROVISIONS

SECTION 1.15.1. SHORT TITLE.

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

SECTION 1.15.2. 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.”

The ordinance codified in 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 1.15.3. PURPOSE

The purpose of this Ordinance is to maintain and protect the public trust of the Tribe by requiring Tribal Council members to adhere to the highest ethical obligations expected of Tribal Council members 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 Tribal Council members 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 lands, 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 Tribal Council members of the Tribe to avoid any actions that would adversely impact the Tribe;
- (e) To ensure that Tribal Council members of the Tribe act in the best interests of the Tribe and not in the personal interests of Tribal Council members;
- (f) To foster the free and good government of the Tribe by assisting Tribal Council members 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 Tribal Council members put forth an honest effort in the performance of governmental duties;

(j) To distinguish between issues of ethical concerns by Tribal Council members, and minor and inconsequential conflicts that are unavoidable by Tribal Council members;

(k) To ensure that Tribal Council members, 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 Tribal Council member 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 Tribal Council members of the Tribe.

SECTION 1.15.4. 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 Tribal Council members to make decisions and actions free from undue influence, conflicts of interest, or other inappropriate and unethical behavior. Tribal Council members 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) Ensure 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 the initial enactment of the ordinance codified in this Ordinance.

SECTION 1.15.5. SCOPE

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

SECTION 1.15.6. 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 1.15.7. 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 1.15.8. EFFECTIVE DATE

This ordinance shall take effect immediately after its adoption by Council.

SECTION 1.15.9. REPEAL OF CONFLICTING ORDINANCE PROVISIONS

Any part of this Ordinance in conflict with the Constitution of the Yurok Tribe shall be superseded by the Constitution. All prior ordinance provisions previously enacted by the Tribal Council and inconsistent with the provisions of this ordinance are hereby repealed. If the provisions of this ordinance conflict with the provisions of any other previously enacted ordinance, the provisions of this ordinance shall control.

SECTION 1.15.10. DEFINITIONS

- (a) “Complainant” means any eligible person who files an ethics complaint alleging violation of this Ordinance by a Tribal Council member.
- (b) “Constituents” means the enrolled Tribal membership. In the case of a Council member, the constituents are the Tribal members who live within that Tribal Council member’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 Emergency Meetings” means a Council meeting scheduled by the Chairperson to address an emergency. During these meetings Council may take a poll vote or other actions necessary to address the emergency.
- (f) “Council Liaison” means an individual Council member appointed to represent a Tribal department, program or issue within the Council and to Tribal or outside organizations.
- (g) “Council Meetings” means a generally inclusive term for all types of Council meetings.
- (h) “Council Retreats” means half day or longer meetings scheduled by the Chairperson where Council Members are expected to participate, brainstorm, deliberate, and conduct comprehensive reviews about laws, policies, and issues impacting the Yurok Tribe and people.
- (i) “Council Special Meeting” means a shorter non-regularly scheduled meeting called by the Chairperson and three Council Members to address specific issue(s) pursuant to Article V, Section 3 of the Yurok Constitution.
- (j) “Council Work Sessions” means a less than half day scheduled meeting where Council Members are expected to participate, brainstorm, deliberate, and conduct comprehensive reviews about a specific law, policy, or issue impacting the Yurok Tribe and people.
- (k) “Tribal Council member” means any person elected or appointed to, or otherwise serving on, the Tribal Council.
- (l) “Employment” means professional services and other services rendered by a Tribal Council member, whether rendered as an employee, consultant, or other independent contractor.
- (m) “Ethics Complaint” or “complaint” means a complaint filed with the Ethics Review Board alleging violations of this Ordinance.
- (n) “Ethics Review Board” or “board” means the body that reviews ethical complaints against a member(s) of the Yurok Tribal Council.
- (o) “Fiduciary Duty” means Yurok Tribal Council has the duty of loyalty and care to solely act, with high levels of competence and thoroughness, in the interest of the Yurok Tribe and its people and not in their own interest.
- (p) “Government to Government Meetings” means a meeting between Yurok Tribal Council and other local, state, federal, and/or international government officials, agencies, and/or representatives where Council Members are expected to participate.

- (q) “GSA” means United States General Services Administration.
- (r) “Illegal drugs” means controlled substances that are illegal to cultivate, manufacture, possess, distribute, and consume under Yurok law, including, but not limited to the Yurok Tribe Controlled Substance Ordinance.
- (s) “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, uncles-in-law, nieces-in-law, nephews-in-law, or others raised in the home or residing in the home of the relevant person.
- (t) “Independent Legal Counsel or Representative” means legal counsel or representative that is not an employee of the Yurok Tribe, including the Office of the Tribal Attorney or the Yurok Tribal Court.
- (u) “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.

- (v) “Perjury” means deliberately providing materially false or misleading statements or information while under oath or during official proceedings, including Tribal Council meetings.
- (w) “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 and for emergency situations.
- (x) “Presence” means physical presence or presence by electronic means whereby a Tribal Council member is able to engage in simultaneous communication.
- (y) “Regular Council Meeting” means regularly scheduled Action Item, Planning Item, Financial, and Executive Session Council Meetings, where Council Members are expected to participate and vote on items, including, but not limited to, laws, resolutions, policies, contracts, sponsorships, funding, and letters.
- (z) “Respondent” means any Tribal Council member against whom an ethics complaint was filed.
- (aa) “Tribal equipment” or “equipment” means any equipment or property purchased or acquired with Tribal funds or resources, including Tribal computer or electronic equipment such as desktop computers, laptop computers, electronic tablets, cell phones, voice recorders, and projectors.
- (bb) “Tribal Secretary” means the Secretary of the Yurok Tribal Council.
- (cc) “Tribal vehicle” means a vehicle owned by the Tribe or GSA.
- (dd) “Tribe” or “Tribal” means or refers to the Yurok Tribe.
- (ee) “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 1.15.11. YUROK TRIBAL COURT JURISDICTION.

(a) The Yurok 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.

(b) The Yurok Tribal Court shall have jurisdiction to hear claims brought by Tribal members that this Ordinance violates or otherwise conflicts with the Yurok Tribe’s Constitution. Yurok Tribal Court shall have jurisdiction to hear civil suits alleging that a person filed a false, frivolous, or malicious ethics complaint against a member(s) of the Yurok Tribal Council.

ARTICLE II. COUNCIL MEETING PROCEDURES

SECTION 1.15.12. PRESENCE AT COUNCIL MEETINGS.

- (a) 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 video participation.

- (b) Council members cannot participate and vote in Council meetings when on vacation or sick leave.
- (c) Council members shall regularly and punctually attend scheduled meetings, work assignments, conferences, workshops, seminars, or other official Tribal government-related meetings or activities.
- (d) Mandatory Council Meetings include:
 - (1) Regular Council Meetings;
 - (A) Council Work Session Meetings;
 - (B) Council Retreats; and
 - (C) Meetings associated with Council Liaison assignments.
 - (2) Non-Mandatory Council Meetings, but Council Members are strongly encouraged to attend, include:
 - (A) Council Emergency Meetings;
 - (B) Council Special Meetings; and
 - (C) Government to Government Meetings.

SECTION 1.15.13. POLL VOTES.

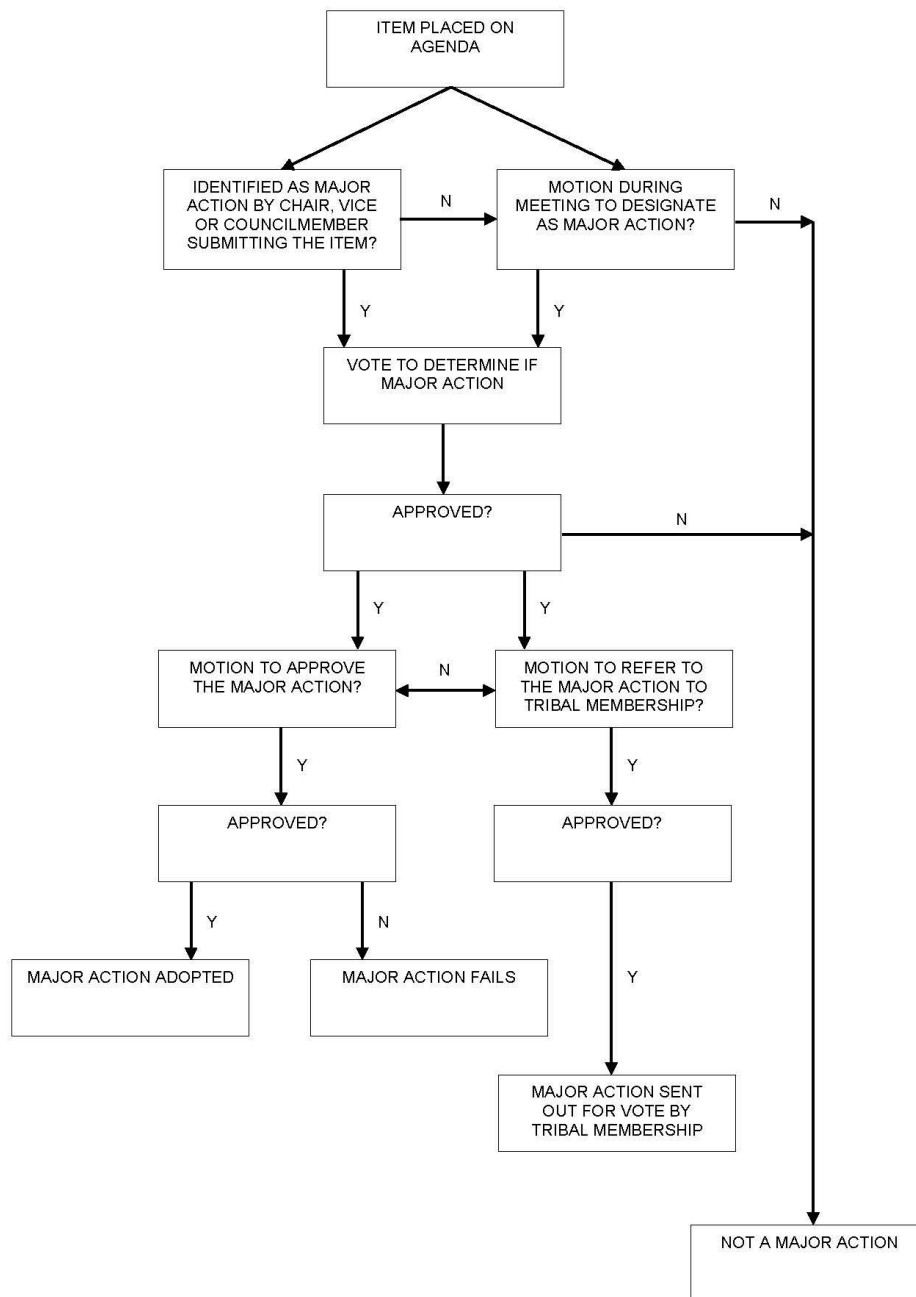
A poll vote is an informal Council vote held during a Council Emergency Meeting and outside of the agenda of a regularly scheduled Council meeting.

- (a) 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.
- (b) Polling shall require a phone call, email, and text to all Council members indicating the time of the Council Emergency Meeting. During the Council Emergency Meeting, all Council Members shall have the opportunity to participate in the discussion regarding the emergency issue. Polling may take place by telephone, video conference, or in person.

SECTION 1.15.14. 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 and the lands within the Yurok Tribe's jurisdiction;

- (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 of the Council.
- (b) Identification of a Major Action.
- (1) Major actions shall be identified upon submission of the action for the Council's consideration. An action must be identified as a major action by the person submitting the action, by the Tribal Chairperson, or by the Tribal Vice-Chairperson.
 - (2) In the event that an action has not been identified as a major action, a Council member may make a motion to identify the action as a major action. If seconded, Tribal Council must vote by majority to identify the action as a major action before voting to approve the action.
- (c) Process for a Major Action.
- (1) The motion maker seeking approval of a major action shall determine at the time of making the motion to either:
 - (i) Approve the major action; or
 - (ii) In accordance with the Constitution Article XI, Section 2, refer a major action to the Yurok Tribal voting membership by directing at least 30 days in advance that the major action be placed on the ballot at the next annual election or by calling for a special election, pursuant to the Yurok Tribe Public Hearing Ordinance.
 - (2) At least five members of the Tribal Council, including a vote by the Tribal Chairperson if needed, is required to pass a major action.
- (d) Public Hearing. For all new or amended legislation and ordinances must be referred to public hearing pursuant to the Yurok Tribe Public Hearing Ordinance prior to being enacted by a vote of the Tribal Council.



ARTICLE III. STANDARDS OF CONDUCT FOR TRIBAL COUNCIL MEMBERS

SECTION 1.15.15. STANDARDS OF CONDUCT.

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

- (a) Tribal Council members hold their official positions as a public trust with a fiduciary responsibility to the Tribe.
- (b) Tribal Council members shall make no commitments or promises purporting to bind the Tribe without appropriate authorization under the laws and policies of the Tribe.
- (c) Tribal Council members shall not use their official position or office to obtain financial gain or anything of substantial value for the private benefit of the Tribal Council member, their immediate family, or for a non-Yurok government owned organization with which the Tribal Council member is associated.
- (d) Tribal Council members shall not utilize the Tribe's resources and property for an unauthorized use.
- (e) Tribal Council members shall not use or attempt to use their official position in a manner that could place their personal or political interests before those of the Tribe. Moreover, Tribal Council members should not act in a manner which appears to place their personal or political interests before those of the Tribe. Tribal Council members shall be free to maintain and pursue their unique positions as a Tribal Council member.
- (f) Tribal Council members shall treat all employees of the Tribe in a professional and businesslike manner. Tribal Council members 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) Tribal Council members shall not give preferential treatment in their decisions and actions or under Yurok law and policies to any Yurok governmental employee, private person, or non-Yurok government owned organization.
- (h) Tribal Council members 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. Tribal Council members 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) Tribal Council members shall not intentionally use or disclose information gained in the course of or by reason of, the Tribal Council member's position or activities in any way that could result in the receipt of anything of value for the Tribal Council member or for their immediate family, or for any other person, if the information is not in the public domain.
- (j) Tribal Council members shall not commit perjury before any Tribal Court, board, committee, commission, or other Tribal or non-Tribal governmental entity.
- (k) Tribal Council members shall not intentionally or otherwise neglect their official duties, including those duties detailed in YTC 1.15.23 through 1.15.26.
- (l) Tribal Council members, 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) Tribal Council members shall not lobby any group or individual to file a complaint against another Tribal Council member. Tribal Council members may direct any group or individual who wishes to file a complaint to the Council Operations to learn more about the grievance and ethic review processes.
- (n) Tribal Council members shall treat each other with the respect and professionalism due Tribal Council members. Tribal Council members maintain the ability to raise issues and concerns, but have a responsibility to raise any such issue in an appropriate manner.
- (o) Tribal Council members shall not contact for Tribal matters any outside legal counsel without proper authorization.
- (p) A Tribal Council member, if uncertain whether a potential activity begin contemplated by that individual is a violation of this Ordinance, shall seek guidance from the Ethics Review Board of the Council.
- (q) Tribal Council members shall raise any potential violations of this Ordinance to the attention of the Ethics Review Board or the Council.
- (r) Tribal Council members shall raise any potential violations of this Ordinance to the attention of the Ethics Review Board or the Council.
- (s) The Tribal Council shall impose sanctions and penalties for violations of this section pursuant to this Ordinance.

SECTION 1.15.16. DRUG TESTING FOR TRIBAL COUNCIL MEMBERS.

- (a) Purpose. The purpose of drug testing of Tribal Council members is to establish, maintain, and ensure 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 Tribal Council members. The Tribe prohibits the abuse of alcohol, illegal drugs, prescribed drugs, and any other controlled substances under Yurok law and policy by any Tribal Council members 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 Tribal Council member whenever exercising or performing official duties.
- (c) Drug Testing. A Tribal Council member 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 Tribal Council member 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 ordinance.
 - (3) Random drug testing shall be conducted pursuant to the Yurok Tribe's Drug and Alcohol Policy procedures.
- (d) Violation of Drug Testing.
 - (1) Any Tribal Council member 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 Tribal Council member.
 - (2) If a Tribal Council member is deemed to be in violation of this section, the Council shall publish notice of such violation in the next Tribal newsletter. The constituents, pursuant to the Constitution Article X, shall determine if any further action may be required of the Tribal Council member.
 - (3) The Ethics Review Board shall receive notice should a Tribal Council member violate this section.
 - (4) Any Tribal Council member 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, 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 Tribal Council member'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 \$2,500.00
- (5) Acknowledgement of Drug Testing. Tribal Council members, 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, Tribal Council members 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.
- (6) 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 1.15.17. VOLUNTARY ADMITTANCE TO A DRUG TREATMENT PROGRAM.

Tribal Council members are encouraged to seek treatment 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 this Ordinance or subject the Tribal Council member to the disciplinary procedures of that section. The cost of any program of rehabilitation in which the Tribal Council member participates shall be the financial responsibility of the Tribal Council member. A Tribal Council member's driving, credit care, 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 1.15.18. MANDATORY MEETING FOR YUOK 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 Regular Council Meetings, Council Work Session Meetings, Council Retreat Meetings, and meetings associated with Council Liaison assignments and acceptance of an elected position to the Council constitutes acknowledgement and acceptance of this requirement. Council Members may be excused from the mandatory Council Meetings in the event of 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 the meeting.

- (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) of this section for nonattendance at three consecutive regularly scheduled Council meetings, or at four such meetings per year, for reasons not excused under subsection (c) of this section. 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 nonattendance.
- (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. Only the days with scheduled Council Meetings or other Council responsibilities shall be counted in the 30 days. 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 Nonattendance. If nonattendance 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 \$20.00
 - (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 reduce by eight hours.

SECTION 1.15.19. USE OF TRIBAL VEHICLES FOR TRIBAL COUNCIL MEMBERS.

- (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) A Tribal Council member 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) A Tribal Council member shall not permit any person who is not a Tribal Council member or Tribal employee to be carried in any Tribal vehicle in which the Tribal Council member 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) A Tribal Council member shall provide the Fiscal Department a copy of the Tribal Council member's driver's license prior to driving a Tribal vehicle.
 - (4) Tribal vehicles shall only be used for Tribal business and Tribal community service. Tribal Council members shall not use a Tribal vehicle for unreasonable personal business or convenience. Incidental stops to and from Tribal meeting 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) A Tribal Council member shall immediately report any change in their driving record to the Fiscal Department.
 - (6) Tribal vehicles generally shall not be parked overnight at a Tribal Council member's place of residence. Exceptions are allowed for Tribal Council members who are assigned a vehicle.
 - (7) An election official shall always lock the Tribal vehicle before leaving it unattended and should not leave valuables in an unattended Tribal vehicle. A Tribal Council member is financially responsible if the Tribal Council member locks the keys in the Tribal vehicle.
 - (8) A Tribal Council member 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) A Tribal Council member 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 Tribal Council member operates the Tribal vehicle.
 - (10) A Tribal Council member is responsible for ensuring proper maintenance and service of any Tribal vehicle assigned to that Tribal Council member.
 - (11) A Tribal Council member 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.
 - (12) A Tribal Council member shall not make personal charges on a GSA vehicle credit card.
 - (13) Smoking, drugs, and alcohol are prohibited in any Tribal vehicle.
 - (14) Animals are prohibited in any Tribal vehicle, except for service animals.
 - (15) A Tribal Council member 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.
 - (16) A Tribal Council member shall not authorize any person to operate a Tribal vehicle except in cases of fatigue, illness, or other emergencies. In those cases, the Tribal Council member may authorize a person with a valid state or federal driver's license to operate the vehicle, but the Tribal Council member 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.
 - (17) A Tribal Council member shall turn in all Tribal vehicle logs and receipts to the Fiscal Department within five days at the end of each month.
 - (18) A Tribal Council member shall not allow a firearm in a Tribal vehicle unless the Tribal Council member 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 the 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 next Yurok newsletter.

- (c) Driver Qualifications. A Tribal Council member 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 a Tribal Council member or an employee of the Yurok Tribe, except in compliance with this section.
- (d) Violations. Alleged violations of this section shall be referred to the Ethics Review Board. Any violations of this section may result in loss of driving privileges. A Tribal Council member 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.

SECTION 1.15.20. TRIBAL CREDIT CARD USE FOR TRIBAL COUNCIL MEMBERS.

- (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 expenses is prohibited.
- (b) Use of Tribal Credit Card for Hotel. A Tribal credit card may be used to guarantee a hotel room. A Tribal Council member who cancels a hotel reservation placed on a Tribal credit card is responsible for getting a cancellation number. If the Tribal Council members fails to get a cancellation number or cancel a hotel reservation within the appropriate time frame, the Tribal Council member shall be responsible for any charge incurred, which may be deducted from the Tribal Council member's honorarium or paycheck.
- (c) Tribal Credit Card Receipts. A Tribal Council member shall turn in all Tribal credit card receipts for that Tribal Council member's card to the Fiscal Department within 10 working days of incurring the charge or returning from travel. The Tribal Council member shall be responsible for any Tribal credit card issued to the Tribal Council member and for any charges billed to that card.
- (d) Use of Tribal Credit Card for Other Travelers. A Tribal Council member 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 Council member or employee. If the traveler is a Tribal Council member 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. A Tribal Council member shall immediately report the loss, theft, or unauthorized use of that Tribal Council member's Tribal credit card to the Fiscal Department so that card can be canceled.
- (f) Emergency Hotel Reservations. A Tribal Council member 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 Tribal Council member shall notify the Chairperson, Vice-Chairperson or Executive Director within 24 hours. The Tribal Council member shall always requires the federal rate, if available, when securing the hotel reservation.
- (g) Emergency Use of Credit Card. A Tribal Council member 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 Tribal Council member in violation of this section shall be subject to loss of credit card privileges for three months and monetary fine of \$300.00 for a first offense, loss of a credit card privileges for one year and \$500.00 for a second offense, and loss of credit card privileges for the remainder of the official's term and \$1,000.00 for the third offense. A Tribal Council member who has credit card privileges reinstated upon subsequent election shall be subject to permanent loss of credit card privileges and a \$1,000.00 fine for any subsequent violation. The Tribal Council member shall be responsible for submitting any receipts and any unauthorized charge incurred may be deducted from the Tribal Council member's honorarium or paycheck. Any violation shall be reported in the next Yurok Tribe newsletter.

SECTION 1.15.21. USE OF TRIBAL EQUIPMENT FOR TRIBAL COUNCIL MEMBERS.

- (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. A Tribal Council member 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 a Tribal Council member transfer Tribal equipment to a Tribal employee or other Tribal Council member, the election 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. A Tribal Council member shall maintain all non-portable Tribal equipment in the Tribal Council member'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 Tribal Council member 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 a Tribal Council member 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 Tribal Council member responsible for the equipment.
- (g) Violation. Alleged violations of this section shall be referred to the Ethics Review Board. A Tribal Council member 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 1.15.22. 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 the decision of the presiding officer or of the Council on questions of order or practice or interpretation of the rules.

ARTICLE IV. COUNCIL ROLES AND RESPONSIBILITIES

SECTION 1.15.23. YUOK 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 and emergency meetings and Council Retreats of the Council or the Tribal voting membership as necessary at the request of Council members or Tribal members as provided in the 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 the 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 nongovernmental 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 or emergency 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 therefor, 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 1.15.24. 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 of the Council; and
- (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 1.15.25. 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
 - (1) enact legislation, rules and regulations not inconsistent with the Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to the Constitution;
 - (2) administer and regulate affairs, persons and transactions within Tribal Territory;
 - (3) enact civil and criminal laws;

- (4) promulgate policies regarding elected Tribal official's and Tribal employees' use, possession or sale of illegal drugs, and the unlawful use or abuse of legal drugs and controlled substances;
 - (5) manage Tribal lands and assets and appropriate and authorize the expenditure of funds owned by or available to the Yurok Tribe;
 - (6) charter and regulate corporations and entities of all kinds;
 - (7) provide for the exclusion of persons and/or entities from Tribal affairs and/or Tribal Territory under appropriate circumstances; and
 - (8) 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 the Constitution. Settlement account trust funds, including earned interest, 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 Tribal Council members of the Tribe. No setting or adjustment of salaries and allowances shall be done without at least 30 days' notice to the Tribal membership. 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 the 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) The Tribal Council district representatives shall conduct quarterly meetings within their respective districts.

SECTION 1.15.26. YUOK 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 one-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 keep abreast of issues and important reading regarding the department, program, or issue.
 - (4) A Council liaison shall review proposals to other agencies for the respective department, program, or issue.
 - (5) A Council liaison shall attend all important meetings regarding the department, program, or issue.
 - (6) A Council liaison shall avoid involvement in staff conflict.
 - (7) A Council liaison shall use best efforts to work as a team for the benefit of the Tribe.
 - (8) If a potential issue of concern arises within a department or program regarding the Council's liaison's direction, the Council liaison shall bring the issue back to the Tribal Council for further clarification.

ARTICLE V. CONFLICT OF INTEREST

SECTION 1.15.27. PURPOSE.

The purpose of Article V is to require accountability of Tribal Council members 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. Tribal Council members must:

- (a) Treat their positions as a matter of public trust and fiduciary duty, 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; and
- (c) Abstain from using their office or position in a manner which could place, or appear to place, their personal interests before that of the Tribal government and its members.

SECTION 1.15.28. INTENT

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

SECTION 1.15.29. PRINCIPLES

Tribal Council members shall:

- (a) Use their powers in a manner consistent with the Constitution and applicable Yurok 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 influence in exchange for money, valuables, or the promise of employment; and
- (e) Not use Tribal resources and powers of office to advance personal or political interests.

SECTION 1.15.29. SPECIFIC PROHIBITIONS.

- (a) Prohibited Actions. Tribal Council members shall not engage in acts which are illegal, involve an abuse of power, involved actions and activities that bring discredit or disrespect on the Yurok Tribe, or contrary to the Council Members' fiduciary duty to the Yurok Tribe and people. 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 Tribal Council member in violation of this section shall be subject to censure, as described in the sanctions and penalties provisions of this Article, and to monetary sanctions of \$1,000.00 for a first offense, \$2,000.00 for a second offense, and \$3,000.00 for a third and subsequent offenses. Alleged violations of this section shall be referred to the Ethics Review Board.

SECTION 1.15.30. GENERAL PROHIBITIONS.

- (a) Tribal Interests Are Paramount. A Tribal Council member 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 Tribal Council member, 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. A Tribal Council member 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 1.15.31. USE OF CONFIDENTIAL INFORMATION FOR PRIVATE GAIN.

A Tribal Council member 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 1.15.32. RESTRICTIONS AGAINST INCOMPATIBLE INTERESTS OR EMPLOYMENT.

Subject to the restrictions and conditions set forth in this policy, Tribal Council members are free to engage in lawful financial transactions to the same extent as the general public. The Tribal 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. A Tribal Council member shall not:

- (a) Hold direct or indirect financial or other economic interests, nor engage in such other employment or economic activity, which involve inherent substantial conflict, or the appearance of having such substantial conflict with responsibilities and duties as Tribal Council members;
- (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 Tribal Council member believes, or has reason to believe, that it will directly and substantially affect, or be so affected by, the Tribal Council member's actions or duties.

SECTION 1.15.33. ABSTENTION FROM OFFICIAL ACTION.

- (a) When a Tribal Council member is required to take official action on a matter in which such Tribal Council member has a personal economic interest, the Tribal Council member should first consider eliminating that interest. If elimination of that interest is not feasible nor required under this Article, the Tribal Council member shall:
 - (1) Prepare and sign a written statement describing the matter requiring action and the nature of the potential conflict as soon as such Tribal Council member 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 Tribal Council member's personal economic interest in such matter.
- (b) Unless otherwise provided by applicable law, the abstention by such Tribal Council member 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 a Tribal Council member'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 1.15.34. TRIBAL GOVERNMENT CONTRACTS – RESTRICTIONS AND BID REQUIREMENTS.

A Tribal Council member 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 Tribal Council member's 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 Tribal Council member or immediate family member;
 - (d) The Tribal Council member has taken no part in the determination of the specifications, deliberations, or decisions with respect to the public contract; and
 - (e) The Tribal Council member is not a member, office holder, employee, or otherwise directly associated with the same entity primarily responsible for letting, performing, receiving, or otherwise supervising the performance of the contract.

SECTION 1.15.35. LIMITS ON OFFICIAL ACTION AND PARTICIPATION – COMPLIANCE WITH YUOK LAWS AND TRADITIONS

- (a) Tribal Council members shall not take any official action or participate in any decision that involves immediate family or in which Tribal Council members may have a substantial financial interest.
- (b) Tribal Council members shall regulate their extra-governmental activities to minimize the risk of conflict with the duties of their elected office.
- (c) Tribal Council members 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 interest, and not employing any special influence or being specifically influenced.
- (d) Any violation of this section shall be subject to the sanctions and penalties provisions as provided in this Article.

SECTION 1.15.36. CONFIDENTIALITY.

- (a) A Tribal Council member shall not disclose materials presented, discussed, or considered in executive or closed session.
- (b) Tribal Council members 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 provisions of this Article, and to monetary sanctions of \$500.00 for a first offense, \$1,000.00 for a second offense, and \$2,000.00 for third and subsequent offenses. Any alleged violation of this section shall be referred to the Ethics Review Board.

SECTION 1.15.37. NEPOTISM PROHIBITED.

- (a) A Tribal Council member 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) A Tribal Council member 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.

Violations. Any alleged violation of this section shall be referred to the Ethics Review Board.

ARTICLE VI. PERSONNEL MATTERS

SECTION 1.15.38. 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 1.15.39. 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 renew and approve the 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 the Council so that the Council can make informed, intelligent decisions concerning Tribal policies.
- (c) Tribal Council members shall have no direct involvement in day-to-day personnel matters except as set forth in the ordinance of the Tribe and shall not become personally involved in employee matters. Tribal Council members shall leave all personnel matters to the Executive Office and shall only intervene when all other means of resolving personnel issues have failed. A Tribal Council member 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. Tribal Council members 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 1.15.40. YUROK TRIBE 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.

ARTICLE VII. ETHICS REVIEW

SECTION 1.15.41. ETHICS REVIEW BOARD.

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

- (a) Composition. The Chairperson shall appoint, with the advice and consent of the Council, three (3) Yurok Tribal elders to sit on the ERB. Further, a representative from the Office of the Tribal Attorney and a Yurok Tribal Court judge shall be identified the respective department directors to serve on the ERB. The Chairperson shall also appoint, with the advice and consent of the Council, one Yurok Tribal elder as an alternative ERB member to serve on the ERB in the event of a conflict of interest. A representative from the Office of the Tribal Attorney and a Yurok Tribal Court judge shall be identified by the respective department directors to serve as an alternative ERB member in the event of a conflict of interest.
 - (A) The Yurok Tribal Court judge shall serve as the Chair of the ERB.
 - (B) Council Operations shall identify a representative to serve as the Clerk for the ERB. This representative will be tasked with receiving ERB filings, scheduling meetings, supporting ERB investigations, taking minutes at ERB meetings and hearings, conducting roll calls, and any other administrative support needed for the ERB.
- (b) Terms. Each Yurok Tribal elder ERB members shall serve for three (3) years and the appointments shall be made in a rotating basis to ensure only one-third (1/3) of the Yurok Tribal elder ERB members are new at a time. It is strongly advised that the same representative from the Office of the Tribal Attorney and a Yurok Tribal Court judge serve on the ERB for three (3) years.
 - (A) In the event of a vacancy, the Chairperson shall appoint, with the advice and consent of Council, a new ERB member to complete the term of the past

ERB member's appointment.

- (B) In the event of a vacancy of either the Office of the Tribal Attorney or Yurok Tribal Court judge positions, their respective department directors shall select a new representative.

(c) Requirements.

- (A) Members of the ERB shall maintain high moral standards and understand and respect Tribal values.
- (B) The individual ERB members serve equally as fact finders.
 - (A) If questions of legal interpretation arise and an official legal opinion is needed for the ERB to properly execute its duties, the ERB can separately request a legal opinion from the Office of the Tribal Attorney, but not from the ERB Office of the Tribal Attorney representative. This clause does not prohibit the representative from the Office of the Tribal Attorney or the Yurok Tribal Court judge from providing some assistance with minor legal questions of clarity. The intent of this clause is to ensure transparency and fairness of the legal interpretations of Yurok law and policy as it relates to the ERB process.
 - (B) Any request for a legal interpretation or official legal opinion must be submitted in writing by the full ERB to the ERB Clerk who will handle communications with the Office of the Tribal Attorney. Any response by the Office of the Tribal Attorney will be sent to the ERB Clerk for distribution to the ERB.
 - (C) The Office of the Tribal Attorney may use outside legal counsel to assist with their ERB legal opinions. If a conflict of interest arises for the Office of the Tribal Attorney, then outside counsel will be used. Any legal expenses will be paid by the ERB fund.

(d) Powers. The ERB shall have powers as detailed in this subsection. The Board:

- (A) Shall, receive, review, and investigate ethics complaints against Yurok Tribal Council members filed with the ERB;
- (B) May conduct its own investigations through calling witnesses, reviewing documents, and interviewing complainants and respondents;
- (C) May have a hearing to hear the arguments, witness testimony, and evaluate evidence;
- (D) May dismiss, may dismiss (1) frivolous, false, filed with malicious intent, or without merit complaints with prejudice or (2) insufficient complaints with or without prejudice;
- (E) May dismiss, with or without prejudice, insufficient complaints;
- (F) May utilize the assistance of the Office of the Tribal Attorney or independent legal counsel to provide legal advice;
- (G) Shall establish additional rules and procedures to conduct its own

governance. Such rules and procedures, and any amendments, must be approved by a majority vote of the Tribal Council prior to taking effect;

- (H) May recommend amendments to this Ordinance to the Tribal Council by a majority vote of a quorum at any duly noticed meeting of the ERB;
 - (I) May respond to any inquiry from an elected Tribal Council official by issuing a confidential advisory opinion to the Yurok Tribal Council as to whether an action contemplated by the Tribal Council member would violate this Ordinance; and
 - (J) May respond to any inquiry from an elected Tribal Council official by issuing a confidential advisory opinion to the Yurok Tribal Council as to whether an action or situation exists that constitutes a potential violation of this Ordinance.
- (e) Prohibitions. The ERB and individual members of the ERB cannot:
- (A) Lobby any group or individual to file a complaint against a Tribal Council member; and
 - (B) Preside over an investigation and hearing when the individual member has a conflict of interest.

SECTION 1.15.42. FILING AN ETHICS COMPLAINT.

- (a) Eligibility. Any enrolled Tribal member or employee of the Yurok Tribe at least 18 years of age may file an ethics complaint alleging violations of this Ordinance. Tribal Council members shall report any violation of this Ordinance and such report will proceed as a complaint.
- (b) Representation. A complainant may be represented by independent counsel or advocate, at their own expense, and such representative shall be permitted to speak for the complainant at the complainant's request.
- (c) Filing Procedures. The complainant shall file the complaint with the ERB Clerk.
- (d) Form of Complaint. The complaint must be in writing and the ERB 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) Specific alleged violation(s) of this Ordinance;
 - (4) Date(s) of the alleged violation(s);
 - (5) Supporting documentation, if any, substantiating and supporting the complaint;
 - (6) Name of any person(s) who may be a witness to the complaint; and
 - (7) Signature of the complainant.
- (e) Improper Complaint. The ERB Clerk has seven (7) days to review the complaint to ensure it meets the requirements set forth above and reject any non-complying

complaints.

- (f) Statute of Limitations. The ERB Clerk shall reject any complaint alleging an ethics violation that occurred more than one year prior to the date the alleged violation was discovered.
- (g) Properly Filed Complaint. Once a proper filed complaint has been received, the ERB Clerk has seven (7) days to provide the complainant a verification of receipt and forward copies of the complaint to the respondent.
- (h) Conflict Check: The ERB Clerk and Office of the Tribal Attorney must complete a conflict of interest check to ensure none of the ERB members have any conflict of interest regarding the complainant, respondent, or the issues discussed in the complaint.

SECTION 1.15.43. RESPONDING TO AN ETHICS COMPLAINT

- (a) Representation. A Tribal Council member may be represented by the Office of the Tribal Attorney, unless the complaint was filed by another Tribal Council member. A Tribal Council member may be represented by independent counsel or an advocate, at their own expense. The Tribal Council member's representative shall be permitted to speak for the Tribal Council member, at the Tribal Council member's request.
- (b) Filing Procedures. Within thirty (30) days of receiving the complaint, the respondent shall file their response with the ERB Clerk.
- (c) Form of Response. The response must be in writing and the ERB may specify a standard response form. Contents of the response shall include, but not be limited to, the following:
 - (A) Respondent's name and official title;
 - (B) Complainant's name and official title, if any;
 - (C) Specific defenses for each alleged violations of this Ordinance;
 - (D) Supporting documentation, if any, substantiating and supporting the response;
 - (E) Name of any person(s) who may be a witness in support of the defenses; and
 - (F) Signature of the Respondent.
- (d) Improper Response. The ERB Clerk has seven (7) days to review the response to ensure it meets the requirements set forth above and reject any non-complying responses. Respondent will have one opportunity and seven (7) additional days, to cure any non-complying response once notified of non-compliance by the ERB Clerk.
- (e) Properly Filed Response. Once a compliant response has been received, the ERB Clerk has seven (7) days to: provide the respondent a verification of receipt; forward copies of the response to the complainant; provide a copy of the complaint and response to the ERB; and schedule a Preliminary Hearing no later than thirty (30) days after the compliant response has been received.

**SECTION 1.15.44. ETHICS REVIEW BOARD PRELIMINARY HEARING,
INVESTIGATION, AND HEARING.**

- (a) Preliminary Hearing.
- (1) Shall be scheduled no later than thirty (30) days after the ERB Clerk has received the response to a complaint.
 - (2) The ERB shall conduct an additional conflict check to ensure none of the ERB members have any conflict of interest relating to the complaint.
 - (A) In the event of a conflict, an alternative ERB member shall be substituted for the conflicted member and serve on the ERB for the complaint that created the conflict.
 - (3) The ERB may dismiss (1) frivolous, false, filed with malicious intent, or without merit complaints with prejudice or (2) insufficient complaints with or without prejudice at the Preliminary Hearing stage.
 - (A) In the event of dismissal the ERB shall issue a written opinion with an explanation discussing the reasons for dismissing. The ERB shall follow the same procedures for written opinions in this section.
 - (4) The ERB shall set the investigation and hearing timeline and schedule dates for investigation meetings and the hearing date. The investigation period shall not take longer than thirty (30) days.
- (b) Investigation. The ERB shall proceed with an investigation in the following manner;
- (A) Conduct a formal meeting with the Complainant;
 - (B) If agreed to by the Respondent, conduct a formal meeting with the Respondent;
 - (C) Ask the Yurok Tribal Court to issue subpoenas to compel the attendance and testimony of witnesses or to produce any documents relevant to a matter before the ERB;
 - (D) Interview witnesses and review documents subpoenaed or provided by the parties;
 - (E) Evaluate the evidence, complaint, and response;
 - (F) Determine whether to issue its final Written Opinion based on a preponderance of the evidence or move forward with a hearing; and
 - (G) The ERB may dismiss (1) frivolous, false, filed with malicious intent, or without merit complaints with prejudice or (2) insufficient complaints with or without prejudice at the Investigation stage.
 - (A) In the event of dismissal the ERB shall issue a written opinion with an explanation discussing the reasons for dismissing. The ERB shall follow the same procedures for written opinions in this section.
- (b) Hearing.
- (A) After the close of the Investigation stage, the ERB shall determine if a

hearing is necessary and if the hearing will be public or closed. In its evaluation, the ERB must determine if the information discussed during the hearing is confidential, embarrassing, or will have any other harmful or adverse impacts to the individuals involved in the case and/or the broader community.

- (B) The ERB shall ensure minimum standards of due process are met during any hearing that it holds including:
 - (A) A brief opening statement and closing argument by the Complainant and Respondent;
 - (B) The presentation of relevant documentary or testimonial evidence by the Complainant and Respondent; and
 - (C) The ability of the Complainant and Respondent to cross-examine any adverse witnesses.

(c) Decisions and Sanctions: Any decisions are based on a preponderance of the evidence.

- (1) The ERB may dismiss (1) frivolous, false, filed with malicious intent, or without merit complaints with prejudice or (2) insufficient complaints with or without prejudice at the Hearing stage.
 - (A) In the event of dismissal the ERB shall issue a written opinion with an explanation discussing the reasons for dismissing. The ERB shall follow the same procedures for written opinions in this section.
- (2) Upon finding a violation by the Respondent has occurred, the ERB may order the following sanctions:
 - (A) Any sanctions specifically provided in any section of this Ordinance or provided under the Constitution and any other Tribal law, policy or regulation;
 - (B) Monetary sanctions may include, unless otherwise specified in this Ordinance, the following:
 - (i) For the first offense, \$100.00;
 - (ii) For the second offense, \$200.00;
 - (iii) For the third offense, \$300.00; and
 - (iv) For the fourth and subsequent offenses, \$500.00.
 - (v) All monetary fines collected for violations of this Ordinance shall be designated for Yurok Tribal community fund.
 - (C) Restitution;
 - (D) Suspension of driving, travel, credit card, and honorarium privileges;
 - (E) Censure for good cause, including sending a letter to the constituency; and
 - (F) Impeachment.

- (i) If a Tribal Council member commits a violation that is an impeachable offense under Article X of the Constitution, the ERB may initiate and file an impeachment complaint with the Tribal Secretary. A Tribal Council member may be removed from office pursuant to Article X of the Constitution and any other applicable Tribal law, policy, or regulation.

(d) Written Orders:

Within fourteen (14) days of dismissing a complaint or upon finding a violation has occurred, the representative from the Office of the Tribal Attorney shall write the opinion of the ERB. Written opinions issued by the ERB 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 sanctions or penalties ordered by the ERB.

- (A) The representative from the Office of the Tribal Attorney shall file the written opinion with the ERB Clerk for delivery to the Complainant and Respondent and Yurok Tribal Council. The written opinion shall also be published in the next Tribal Newsletter.
- (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 ERB by filing a written notice to the ERB Clerk describing the form of retaliation. Upon determining that retaliation has occurred, the ERB shall take necessary and appropriate action under this Ordinance and Tribal laws, policies, and regulations.

SECTION 1.15.45. APPEAL OF THE ETHIC REVIEW BOARD DECISIONS.

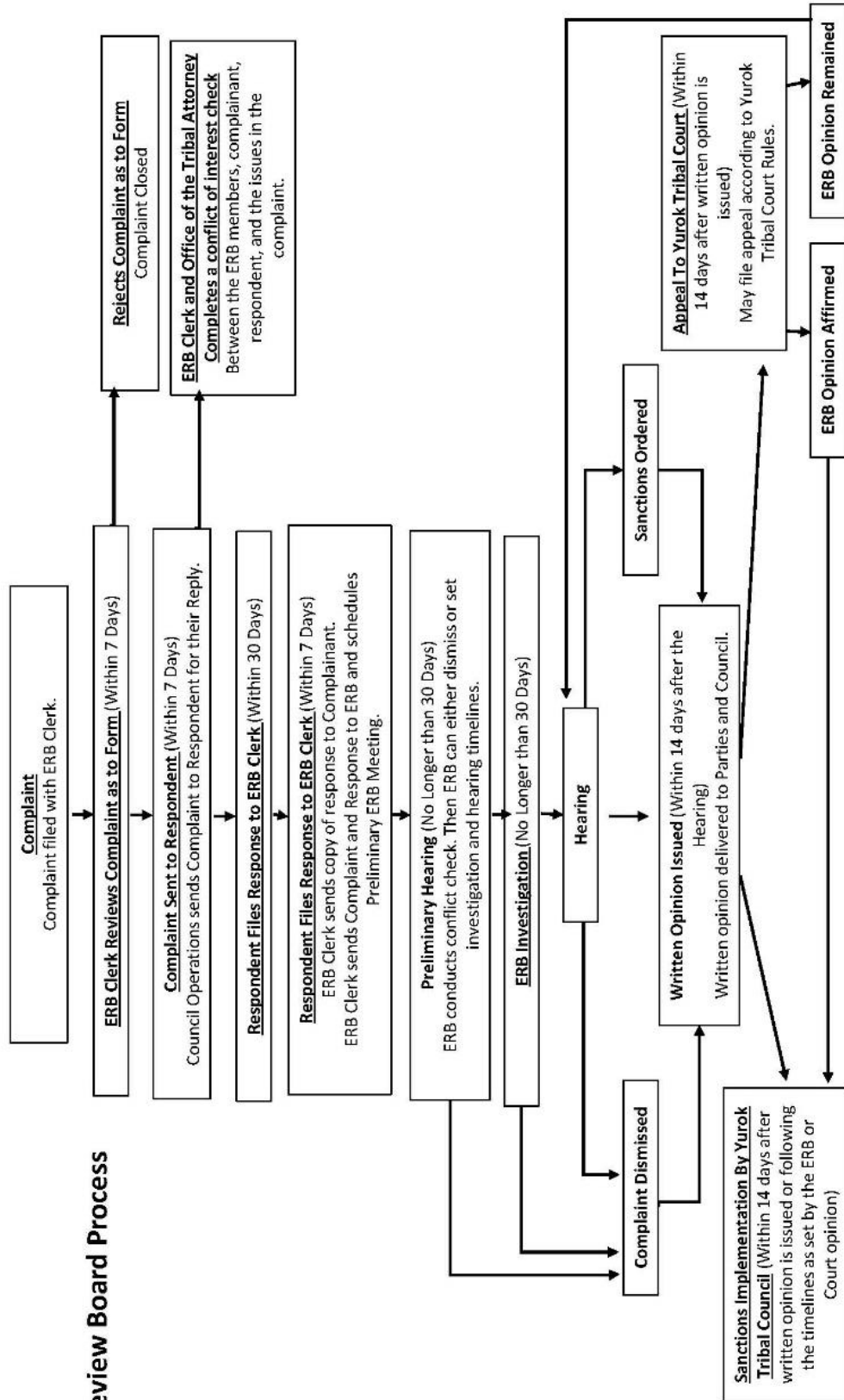
- (a) At least fourteen (14) days after the issuance of the ERB written opinion, the Parties may appeal the ERB decision to the Yurok Tribal Court.
- (b) The Yurok Tribal Court is limited in its review and can only correct errors of law, incorrectly interpreted Yurok traditional law and custom, and any other mistake that would result in the establishment of an incorrect application of the laws or Yurok traditional law and customs.
 - (2) The appeal record is limited to the final record of the ERB hearing, including the complaint, response, any evidence submitted or reviewed by the ERB, the recording of the ERB hearing, and the ERB final written opinion.
 - (3) The Yurok Tribal Court may only affirm or remand an ERB decision. In the event of a remand, the Yurok Tribal Court will inform the ERB of the legal and cultural errors made in its decision and give guidance on proper legal and cultural implementation.
- (c) The Yurok Tribal Court ERB representative shall not be the presiding judge over the appeal of an ERB opinion.
- (d) Unless different from this Ordinance, the Yurok Tribal Court standard rules, policies, and procedures shall apply to any ERB opinion appeals.

- (e) If there is only one Yurok Tribal Court judge, and that Judge is serving on the ERB, the Yurok Tribal Appeals Court Judge may preside over the ERB appeal. Any additional expense incurred by calling the Yurok appellate judge will be charged to the ERB Fund.

SECTION 4002. Yurok Tribal Council Implementation of Final Orders.

- (a) Within fourteen (14) days after the final order is issued, either by the ERB or the Yurok Tribal Court after an appeal, the Yurok Tribal Council shall implement the terms of the final order and ensure any sanctions ordered are followed by the Tribal Council member(s) involved.
- (b) Failure to implement or follow a final ERB order may constitute a violation of this Ordinance and be cause for an ethics violation.

Ethics Review Board Process



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

This is to certify that this Resolution Number _____ was approved at a duly called meeting of the Yurok Tribal Council on _____, 2020, at which a quorum was present and that this Resolution Number _____ was adopted [by Consensus in accordance with Tribal tradition and Article V, Section 6 and **OR** by a vote of ____ for and ____ opposed and ____ abstentions in accordance with] Article IV, Section 5(j) of the Constitution of the Yurok Tribe. This Resolution Number _____ has not been rescinded or amended in any way.

DATED THIS ____ DAY OF _____ 202__

Joseph L. James, Chairperson

Yurok Tribal Council

ATTEST:

Sherri K. Provolt, Secretary

Yurok Tribal Council