

**KASHIA BAND OF POMO INDIANS  
LENDING ENTERPRISE ORDINANCE  
ORDINANCE #13**

(Final ~ Approved by General Council 8/10/13)

**I. INTRODUCTORY PROVISIONS**

- A. Authority. This Ordinance is adopted under the inherent sovereign authority of the Kashia Band of Pomo Indians and in accordance with Article 5, Section 1(l), (o) and (p) and Article 6, Section 2 of the Kashia Band's Constitution.
- B. Tribal Policies. The Kashia Band of Pomo Indians, through its General Council, declares that it is the policy and intent of the Tribe to:
1. Preserve and enhance the quality of life, well-being and economic circumstances of the Tribal Community by providing basic services and assistance to Tribal Members, protecting and managing Tribal lands and resources, and performing other essential governmental functions; and
  2. Exercise its sovereignty and powers of self-government by establishing and operating Tribal businesses for the benefit of the Tribe and its members and in compliance with Tribal and other applicable laws.
- C. Purposes. The purposes of this Ordinance are to implement the Tribal Policies described above by:
1. Establishing a Tribal Enterprise to operate one or more consumer lending businesses pursuant to the sovereign authority of the Kashia Band of Pomo Indians; and
  2. Delegating to the governing body of the Enterprise certain authorities and responsibilities to operate and manage its businesses with integrity and in compliance with applicable law; and
  3. Ensuring the revenues of the Enterprise are used to benefit the Tribe and its members.

**II. CREATION OF TRIBAL LENDING ENTERPRISE; ATTRIBUTES; AUTHORITY**

- A. Establishment; Ownership. The Kashia Band of Pomo Indians, through its General Council, hereby establishes the Kashia Lending Enterprise to operate one or more consumer lending businesses on behalf of and for the benefit of the Tribe. The Tribe

shall have and maintain sole proprietary interest in and responsibility for the Enterprise and its business operations.

- B. Attributes. The Enterprise is and shall be considered a Tribal Government entity authorized to do business on behalf of the Tribe. As such, the Enterprise possesses all privileges and immunities of the Tribe.
- C. Authority. The Enterprise is authorized to operate one or more consumer lending business(es), and may establish such divisions or otherwise operate under such business name(s) as it deems appropriate. To implement this authority, the Enterprise shall have and may exercise the following powers:
  - 1. Operate one or more consumer lending business(es) in compliance with Tribal and other applicable law;
  - 2. Manage business accounts and revenue;
  - 3. Acquire, hold, manage and dispose of assets;
  - 4. Borrow money and incur financial obligations as appropriate to support the Enterprise's business operations, subject to any approval of the Tribal Council and/or General Council that may be needed to comply with section III.J below;
  - 5. Retain staff, and contract with service providers and professional advisors as appropriate to support the Enterprise's business operations, subject to available budget;
  - 6. Sue and, to the extent of any valid waiver of its sovereign immunity, be sued in any court of competent jurisdiction;
  - 7. Waive its sovereign immunity under terms and conditions and to the extent approved by the General Council.
- D. Use of Revenues. All net revenues of the Enterprise shall be used to fund Tribal Government operations and programs, to provide for the general welfare of the Tribe and its members, and to promote Tribal economic development.

### III. GOVERNING BOARD

- A. Composition. The Enterprise shall be governed by a Board of Directors, initially composed of three members: a Chairperson and two Directors, appointed by the Tribal Council.
- B. Terms of Office. Each member of the Board of Directors shall serve a term of two years, and may be reappointed by the Tribal Council for subsequent term(s) of office.

C. Qualifications of Board Members. Each person appointed to the Board of Directors must satisfy all of the following requirements, subject to the provisions of section III.D below:

1. Each member of the Board of Directors must be a duly enrolled Tribal Member.
2. Each member of the Board of Directors must be at least 25 years of age.
3. Each member of the Board of Directors must possess a high school diploma, GED, or comparable educational certificate.
4. No person may serve on the Board of Directors while holding any position on the Tribal Council.
5. No person that has been convicted or pled guilty or no contest to any felony involving violence (such as murder, rape, or child or elder abuse), financial crime (such as embezzlement) or dishonesty (such as fraud) may serve on the Board of Directors.
6. No person that has been convicted of a felony other than as defined in paragraph 5 above within five (5) years prior to the date of his or her appointment may serve on the Board of Directors.
7. No person that has been denied a license by any federal, state or tribal government agency to engage in any regulated business activity (including employment by a regulated business) may serve on the Board of Directors.
8. No person may serve on the Board of Directors if he or she, or an Immediate Family Member, has a financial interest in any vendor providing goods or services under contract to the Enterprise, or similar conflict of interest.
9. Each member of the Board of Directors must obtain from the Kashia Lending Commission, and maintain at all times while serving on the Board of Directors, an appropriate License
10. Each member of the Board of Directors must be available to perform all the duties required by this Ordinance, By-Laws of the Board and applicable policies and procedures.

D. Tribal Council Authority. The General Council hereby delegates to the Tribal Council the authority to oversee the operation of the Board of Directors, to increase the number of positions on the Board as it deems appropriate, and to allow for certain positions on the Board to be filled by Tribal Members under the age of 25 for training purposes, or by non-Members with financial industry experience and expertise subject to available budget.

E. Removal; Vacancy.



1. *Grounds for Removal.* The Tribal Council shall have the authority to remove from office any member of the Board for any of the following reasons:
  - a. failure to perform the duties of office, including attendance at all duly called meetings of the Board without good cause (such as illness or a family or work-related emergency)
  - b. failure to comply with any of the qualifications listed in section III.D above at any time during the member's term in office
  - c. conduct that, in the view of the Tribal Council, otherwise threatens the integrity and best interests of the Enterprise and the Tribe.
2. *Removal Process.*
  - a. If the Tribal Council determines that a member of the Board of Directors should be removed for any of the reasons stated in section III.E.1 above, it shall first give written notice to the Board member explaining its determination and providing the Board member the opportunity to be heard if her or she wishes to challenge the Tribal Council's determination. Depending on the nature and severity of the basis for the removal action, the Tribal Council may suspend the Board member from his or her position pending the conclusion of the removal proceedings including any appeal period, provided the notice clearly informs the Board member of the scope and extent of the suspension.
  - b. The notice shall inform the Board member of the date, time and location of the hearing, which shall take place not less than ten (10) days after the notice is issued, and which shall be rescheduled by the Tribal Council if the Board member submits a written request for a postponement at least 24 hours prior to the scheduled hearing. In no event shall the new hearing date be more than thirty (30) days after the date of the hearing originally scheduled by the Tribal Council.
  - c. The Tribal Council shall issue a written notice of its decision regarding the removal of the Board member within ten (10) days after (1) the matter has been heard, or (2) the scheduled hearing date if the Board member does not appear or timely request the hearing be rescheduled. The notice shall explain the Tribal Council's decision and notify the Board member of his or her right to appeal the decision to the General Council by written request submitted within ten (10) days of his or her receipt of the Tribal Council's decision.
  - d. If the Board member timely requests an appeal, the matter will be placed on the agenda and heard at the next General Council meeting at which there is a quorum present. The decision of the General Council shall be final and not subject to further appeal.
3. *Vacancy.* Any vacancy on the Board of Directors created by the death, resignation or removal of any member, or by any other cause, may be filled by

the Tribal Council, provided that the person appointed to fill the vacancy satisfies all the requirements set forth in section III.C above.

F. By-Laws. The responsibilities of each member of the Board of Directors shall be defined in By-Laws to be developed by the Board and presented to the Tribal Council for approval within thirty (30) days following adoption of this Ordinance.

G. Compensation. Each member of the Board of Directors may receive such compensation for the fulfillment of his or her duties as the Tribal Council may from time to time fix subject to available budget.

H. Duties and Authorities of the Board.

1. The Board shall be responsible for overseeing the operation and management of the Enterprise's lending business(es).
2. The Board shall oversee the establishment and furnishing of one or more offices as it deems necessary and appropriate, which shall serve as the Enterprise's principal place(s) of business.
3. The Board shall open such bank account(s) in the name of the Enterprise and/or any divisions or subsidiaries thereof, and manage or oversee the management of the Enterprise's accounts, revenue and assets, as it deems necessary to ensure the effective operation of Enterprise's business(es) for the benefit of the Tribe, including the transfer of net revenues to the Tribal General Fund at such times and in such amounts as provided in policies and procedures approved by the Tribal Council.
4. The Board shall be responsible to develop and adopt By-Laws and such policies and procedures as it deems appropriate, subject to Tribal Council approval, to govern the operational details of the Enterprise and to ensure compliance with all Tribal and other applicable laws.
5. The Board shall be responsible to develop an annual operating budget for presentation to and approval by the Tribal Council as provided in section III.J below.
6. The Board shall be responsible to ensure that all business records of the Enterprise are maintained as required by all applicable laws and to make such records available to the Kashia Lending Commission upon request.
7. The Board shall be responsible to ensure the Enterprise is adequately staffed to effectively operate, subject to available budget.
8. The Board shall have the authority and responsibility to negotiate, approve and execute contracts to borrow money or otherwise arrange for financing to support business operations, subject to any approval of



the Tribal Council and/or General Council that may be needed to comply with section III.J below.

9. The Board shall have the authority and responsibility to negotiate, approve and execute contracts with service providers for such things as customer referrals and screening, customer service, and technical, financial and operational management support services necessary to operate the business, subject to any approval of the Tribal Council and/or General Council that may be needed to comply with section III.J below.
10. The Board shall be responsible to ensure business operations (including those undertaken by contracted service providers) comply with applicable law and contract requirements, and that the Enterprise and its service providers maintain valid Kashia Lending Commission licenses.
11. The Board shall have the authority to select and execute contracts with professional advisors, such as attorneys, accountants, and financial industry professionals, as it deems necessary and subject to available budget.
12. The Board shall be responsible to arrange for the procurement and maintenance of insurance as appropriate to protect against risks associated with the Enterprise's business operations.
13. The Board shall be responsible to provide monthly reports of its activities to the Kashia Lending Commission and Tribal Council, and annual reports to the General Council.
14. The Board shall be responsible to arrange for annual financial and regulatory compliance audits of all business operations of the Enterprise, including the lending activities of contracted vendors undertaken on behalf of the Enterprise.
15. The Board shall be responsible to cooperate with the Kashia Lending Commission with respect to licensing, inspections, investigations, and other activities of that Commission undertaken in accordance with the Kashia Lending Commission Ordinance.
16. The Board shall be responsible to coordinate with the Enterprise's contracted vendors and the Kashia Lending Commission as appropriate, to resolve disputes with customers of the Enterprise's business(es).

I. Meetings; Actions of the Board.

1. Regular meetings of the Board shall take place at least monthly, and more often as the Board deems necessary, at such date, time and location as set by the Board.

2. Special meetings of the Board may be called by the Chairperson or upon written request of two (2) Directors.
3. The Board may hold executive or closed sessions for any of the following purposes:
  - a. to discuss business strategies, marketing and pricing strategies of the Enterprise
  - b. to negotiate the terms of any financing arrangement or vendor contract to support the Enterprise's business operations
  - c. to discuss any personnel issue or other matter reasonably deemed to be a private matter
  - d. to consult with the Enterprise's attorneys or other professionals
  - e. to discuss any other matter that the Board deems confidential or proprietary in nature.
4. A majority of the Board shall constitute a quorum necessary to conduct business.
5. Decisions of the Board shall be made by majority vote of the members of the Board in attendance at any meeting at which there is a quorum, and shall be documented in the written minutes of the meeting or in a written Resolution of the Board.

J. Approval of Board Actions. The following actions of the Board shall not be effective unless and until approved by further action of the General Council or the Tribal Council as specified herein::

1. Any waiver of the sovereign immunity of the Enterprise for any purpose must be approved by the General Council, except to the extent that the purpose, nature and all terms of such waiver are consistent in every respect with a waiver previously approved by the General Council.
2. Any Enterprise contract for goods or services must satisfy the Tribe's procurement policy unless and until the Tribal Council approves policies and procedures for the Enterprise that address procurement.
3. Each annual budget under which the Enterprise proposes to operate must be approved by the Tribal Council.
4. Any proposed expenditure of the Enterprise that exceeds or is for a purpose not identified in an approved budget must be approved by the Tribal Council.

#### IV. RECORDS AND REPORTS

A. Record Keeping. The following records of the Enterprise shall be maintained for such time periods as the Kashia Lending Commission may require:

1. Documentation regarding the revenues, expenses, assets and liabilities of the Enterprise and each of its subsidiaries;
2. Daily reports of all transactions of the Enterprise and each of its subsidiaries;
3. All contracts, correspondence and other communications between the Enterprise (or any of its subsidiaries) and every vendor providing goods and/or services;
4. Correspondence, reports, notices and other documentation regarding complaints from any customers of the Enterprise or any of its subsidiaries or service providers, including grounds, efforts to resolve, formal proceedings, status, and final disposition as appropriate;
5. Correspondence, reports, notices and other documentation regarding any alleged violations by the Enterprise or any of its subsidiaries or service providers of any Tribal or other applicable law, including grounds, efforts to resolve, enforcement proceedings, status, and final disposition as appropriate;
6. Every financial and regulatory compliance audit prepared by or on behalf of the Enterprise and each of its subsidiaries and service providers as required by Tribal law; and
7. Any other records required by the Tribal Council or Kashia Lending Commission.

B. Reporting Requirements.

1. Reports containing the following information shall be submitted to the Kashia Lending Commission and Tribal Council monthly by or on behalf of the Enterprise and each of its subsidiaries:
  - a. A summary of all customer transactions during the reporting period;
  - b. A summary of any customer complaints made or pending during the reporting period, including any efforts to resolve and the results of such efforts;
  - c. A description of any notices or other communications from any governmental agency regarding the business operations of the Enterprise or any subsidiary made or pending during the reporting period, including any response or other action taken by the Enterprise or subsidiary;
  - d. A summary of all internal compliance monitoring activities related to the operations of the Enterprise, any of its



- subsidaries or service providers, undertaken during the reporting period;
  - e. The status of all required licenses, and any information bearing on their validity or eligibility;
  - f. Confirmation of compliance with all Tribal and other applicable law; and
  - g. Any other issue the Kashia Lending Commission has requested be addressed.
- 2. Monthly reports to Tribal Council shall also include
    - a. Financial summaries detailing gross revenue per transaction type, operating and other expenses, for the preceding month and year to date, and expected or realized net revenue to Tribe;
    - b. Any unforeseen expenses calling for adjustments to operating budget; and
    - c. Any other issues the Tribal Council has requested be addressed.
  - 3. Annual reports to the General Council shall provide an overview and summary of transactions, revenue and expenses of the Enterprise and each of its subsidiaries; expected or realized net revenue to Tribe; a summary and the status of any customer complaint, a description of any notices or inquiries issued by any governmental agency regarding business operations, and the outcome of each financial and regulatory compliance audit undertaken during the reporting period.

## V. SOVEREIGN IMMUNITY

Nothing in this Ordinance is intended to, nor shall any provision be deemed to, waive the sovereign immunity of the Kashia Band of Pomo Indians or the Kashia Tribal Lending Enterprise for any purpose. Any waiver of sovereign immunity for any purpose must be expressed in a writing approved by the appropriate governing body in accordance with applicable Tribal law.

## VI. AMENDMENT

This Ordinance may be amended by the General Council as provided in the constitution and any procedures approved by the General Council.

## VII. EFFECTIVE DATE

This Ordinance shall become effective upon its approval by the General Council.

### CERTIFICATION

We, the undersigned members of the Tribal Council of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria, hereby certify that the foregoing Tribal Lending Enterprise Ordinance was approved by the General Council at a duly called regular meeting at which a quorum was present on August 10, 2013, by a vote of 64 for, 0 against, and 2 abstaining.



Emilio Valencia, Tribal Chairman

ATTEST:



Violet Wilder, Tribal Secretary