



# *Kashia Band of Pomo Indians*

## *of the Stewarts Point Rancheria*

### **TRIBAL ETHICS AND CONDUCT ORDINANCE**

#### **ORDINANCE No. 11**

(Approved by General Council 02/08/09; (Amendment  
Approved by General Council 08/11/18)

#### **Section 1. General Provisions**

- 1.1 Authority. This Ordinance is adopted under the inherent sovereign authority of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria ("Tribe"), and Article 5, Section 1, paragraphs (i), (l), (o) and (p) of the Tribe's Constitution.
- 1.2 Purpose. The purpose of this Ordinance is to govern the conduct of Tribal officials and staff, including employees, contractors, committee and board members and volunteers, to ensure their work-related behavior protects and advances the best interests of the Tribe, and its businesses, districts and other entities, consistent with Tribal standards as described in this Ordinance.
- 1.3 Policy. It is the policy of the Kashia Band of Pomo Indians that all Tribal officials and staff, including employees, contractors, committee and board members and volunteers, conduct themselves in a manner that protects the best interests of the Tribe and its businesses, districts and other entities, and is free from corruption and conflicting interests in the conduct of their duties. Each person subject to the provisions of this Ordinance is personally responsible for ensuring that his or her conduct conforms to these standards.
- 1.4 Applicability. Except as expressly stated otherwise, the provisions of this Ordinance shall apply to all of the following, who collectively shall be identified as "Tribal Representatives" in this Ordinance:
  - (a) all persons elected by the General Council to serve on the Tribal Council;
  - (b) all persons employed by the Tribe or any of its businesses, districts or other entities;
  - (c) all persons contracted to perform services for the Tribe;
  - (d) all persons serving on Tribal Committees;

- (e) all other Persons performing volunteer functions in the Tribal Office or elsewhere for or on behalf of the Tribal Government.

## **Section 2. Standards of Conduct**

- 2.1 Tribal Representatives shall be held to the highest standards of professional and personal conduct. They are expected to set an example of honesty, integrity, professionalism and ethical behavior. Any violations of this Ordinance have the potential to impact the effective functioning of Tribal Government, threaten the financial and other interests of the Tribe and its members, bring discredit to the Tribe and harm its good reputation.
- 2.2 Tribal Representatives shall conduct themselves in a highly professional and ethical manner. In particular, Tribal Representatives shall refrain from engaging in any of the following behavior:
- (a) Use of language and/or behavior that is improper, offensive, hazardous or damaging to any person or property and, in particular,
    - (1) Any language or activity of a sexual or gender-specific nature,
    - (2) Any language or activity that constitutes sexual harassment, and/or
    - (3) Any language or activity that creates a threatening, hostile or offensive working environment.
  - (b) Abusive, disrespectful race-based, age-based, or otherwise discriminatory language and/or actions.
  - (c) Any act of insubordination, such as disregarding the lawful instruction of a supervisor.
  - (d) Abuse of alcohol or illegal substances, or use of prescription medication other than in accordance with a doctor's instructions.
  - (e) Failure to timely perform duties, satisfy work-related commitments, or attend required meetings without good cause, such as illness or legitimate family obligations.
  - (f) Any misuse or abuse of authority including, without limitation, the following:
    - (1) Intimidating or threatening behavior.
    - (2) Harassment of another Tribal Representative, Tribal Member, or person doing business or seeking to do business with the Tribe.
    - (3) Obtaining special personal privileges, including use of Tribal records, cash, bank accounts, credit cards or other Tribal assets for personal use, and/or receiving financial benefit from

any contractor, investor or other person or entity doing business or seeking to do business with the Tribe.

(4) Unauthorized access to or use of Tribal records, cash, bank accounts, credit cards, or other Tribal assets.

(g) Any other conduct not specifically identified in this Ordinance that is likely to bring financial or other harm to the Tribe, or otherwise bring the honesty, integrity and respect of the Tribe into question.

### 2.3 Confidentiality.

(a) Every Tribal Representative shall be held to the highest standard of confidentiality with respect to sensitive, or non-public information regarding the Tribe and/or its members to which s/he may have access.

(b) Every Tribal Representative shall sign and comply with a confidentiality agreement binding the Representative to the Confidentiality provisions set forth in this Ordinance.

(c) No Tribal Representative shall divulge any confidential information, data, records or other documents regarding the activities of the Tribe or any Tribal member in the absence of a lawful order of the General Council, Tribal Council or court with jurisdiction over the Tribe.

(d) Any disclosures that would compromise any business of the Tribe or violate the privacy of a Tribal member are expressly prohibited. The types of disclosures prohibited by this section include, but are not limited to:

(1) information related to contemplated or pending legal proceedings to which the Tribe is or may be a party,

(2) contemplated or pending disciplinary actions against a Tribal Representative other than in compliance with section 5.5(d), or

(3) any other non-public information, until such time as the General Council or Tribal Council determines it appropriate to disclose such information to any third parties. Exceptions to this provision may be granted to share information with bona fide regulatory or law enforcement agencies if required by law

(e) These Confidentiality provisions shall not be used to prevent disclosure of information regarding Tribal business and affairs (but not the personal business and affairs of a Tribal member) at General Council meetings, or if the General Council directs that such information be made available to Tribal Members for review at the Tribal Office.

2.4 Gifts. To avoid the appearance of impropriety or improper decision-making based on bribery, no Tribal Representative shall receive, either directly or indirectly from any person or entity, owner and/or employee of a business,

including a contractor, investor or other person or entity doing or wishing to do business with the Tribe or any of its businesses, districts or other entities:

- (a) any gift, reward or incentive, such as merchandise, trips, outings, tickets, or the like valued in excess of \$500.00, or
- (b) any cash payment, fee, gift card, or anything that can be redeemed for cash in any amount.

This provision is not intended to prohibit traditional tribal gift-giving practices.

2.5 Business Interests. To avoid the appearance of impropriety or improper decision-making, any Tribal Representative having an interest in any business doing or seeking to do business with the Tribe must disclose such interest and the proposed business activity to, and obtain approval from, the Tribal Council. The types of interests requiring disclosure and approval shall include but not be limited to:

- (a) Any ownership interest in the business, except that this prohibition shall not apply to ownership of less than ten (10) percent of the stock of a publicly traded company.
- (b) Any other financial interest in a business, including that of a lender or borrower.
- (c) Employment of an Immediate Family Member, as defined in section 2.6 below, as a principal or owner of the business as described above.
- (d) Ownership by an Immediate Family Member of a financial interest in the business as described above.

2.6 Other Conflicts. No Tribal Representative shall participate in decision-making regarding a matter in which s/he or an Immediate Family Member has a direct interest. For purposes of this Ordinance, Immediate Family Member means a parent or guardian, child, sibling, spouse or domestic partner, grandparent, grandchild, aunt, uncle, niece or nephew. Other relationships that may affect a Tribal Representative's ability to make a fair and impartial decision on any matter must be disclosed to the Tribal Council prior to decision-making on the matter, and the Tribal Council shall determine whether the Representative's participation in such decision-making would constitute a violation of this provision.

### **Section 3. Other Prohibited Acts.**

- 3.1 Any theft, misuse or abuse of anything of value from the Tribe, another Tribal Representative or a Tribal Member.
- 3.2 Conviction in a federal, state or tribal court, or other documented finding by a Tribal governing body, of any financial crime, such as theft or embezzlement, or any crime of dishonesty, such as fraud, as defined by federal, state or tribal law, while serving as a Tribal Representative.
- 3.3 Withholding or failing to disclose information regarding a prior conviction as requested when being considered for a position with Tribal Government, a Tribal business, district or other entity.
- 3.4 Any willful or grossly negligent damage to property of the Tribe, another Tribal Representative or a Tribal Member.
- 3.5 Assault or battery, or any other violent or hostile act against another person except in self-defense.
- 3.6 Any other violation of Tribal law.

#### **Section 4. Penalties**

- 4.1 Penalties for violation(s) of this Ordinance should be progressively imposed and proportionate to the nature and extent of the violation(s) committed.
- 4.2 Penalties may include any of the following, imposed singly or in combination:
  - (a) Verbal or written reprimand, documented in Tribal Representative's file
  - (b) Reimbursement for any monetary damage resulting from the violation(s)
  - (c) Civil fines
  - (d) Community service for the benefit of the Tribe.
  - (e) Suspension from duties
  - (f) Termination from position
  - (g) Civil suit to pursue any remedy authorized by law to recover damages suffered and/or prevent further harm resulting from the violation(s)
  - (h) Referral to local, state or federal authorities, as appropriate, for criminal proceedings
  - (i) Recall or removal from office (subject to the provisions of Article 4, Sections 7 through 9 of the Constitution and, as applicable, Section 7 of the Election Ordinance)
  - (j) Suspension or termination of participation in revenue sharing distributions and/or other Tribal member benefits
  - (k) Determination of ineligibility to run for office

(l) Disenrollment (subject to the provisions of Section 10 of the Tribe's Membership/Enrollment Ordinance).

4.3 The penalties described in section 4.2(a), (e) and (f) above may be imposed by Tribal Administration or the Tribal Council in accordance with the Tribe's personnel policies and procedures and may not be appealed to the General Council.

4.4 The penalties described in section 4.2(b), (c) and (d) may be imposed by the Tribal Council, and may be appealed to the General Council.

4.5 The penalties described in section 4.2(g), (h), (i) (j), (k) and (l) may be recommended by the Tribal Council, but may only be ordered by the General Council after a hearing as described in sections 5.6 and 5.9 below; and, in the case of a recommended disenrollment, only to the extent General Council has taken independent action in accordance with Section 10 of the Tribe's Membership/Enrollment Ordinance to authorize the imposition of such a penalty.

## **Section 5. Enforcement**

5.1 Authority. The Community Council shall have the ultimate authority to make final decisions on all matters in which a Tribal Representative is accused of violating this Ordinance, to determine whether such violation has taken place and an appropriate penalty, except as to penalties provided for in sections 4.2(a), (e) and (f) and 4.3 above. Except as otherwise provided in this Ordinance, if the accused is a Tribal Council member, the matter shall be heard directly by the General Council or its designee. If the accused is another Tribal Representative, the Tribal Council or other General Council designee shall hear the matter, and its decision may be appealed to the General Council.

### 5.2 Initiation of a Report.

- (a) Every report of violation(s) of this Ordinance must be made in writing, dated and signed under penalty of perjury, and include the following:
  - (1) a detailed description of the alleged violation(s),
  - (2) the identity of each witness to the alleged violation(s), and of each other person with relevant information regarding the matter
  - (3) supporting documentation, if any,
  - (4) the legibly printed name, address and telephone number of the person making the report.
- (b) The Business Committee may develop a report form to be used for this purpose.
- (c) If a person desiring to report a violation is unable to write, the person may provide a verbal report that shall be tape-recorded and transcribed.

(d) The report should be made to the Tribal Administrator, with a copy to the Business Committee. If the Tribal Administrator is alleged to have violated this Ordinance, the report should be made to the Tribal Chairperson, with a copy to the Business Committee.

(e) Any report must be made within three (3) months after the discovery of the alleged violation. This deadline may be extended for up to three (3) additional months for good cause as determined by the Community Council.

5.3 False Accusations. Any person that is found to have knowingly made a false accusation that a Tribal Representative has committed a violation of this Ordinance shall be subject to the enforcement provisions and penalties set forth in this Ordinance.

5.4 Investigation. Upon receipt of a report of violation(s) of this Ordinance, or if the Tribal Council independently learns of a potential violation, the Tribal Council and Tribal Administrator (or Chairperson, per Section 5.2(d)), shall immediately undertake an investigation of the matter.

- (a) If the accused is a Tribal Council member, neither s/he nor Immediate Family Members on the Tribal Council shall participate in the investigation.
- (b) The investigation may include the examination of relevant documents, if any, and the interview of all witnesses and other persons possessing information relative to the alleged violation(s).
- (c) The Tribal Council and Tribal Administrator (or Chairperson, per section 5.2(d)) shall conclude the investigation within fifteen (15) to thirty (30) days of receipt of a report of violation(s) of this Ordinance.
- (d) Depending on the nature and severity of the matter, the person alleged to have committed the violation(s) may be suspended pending the outcome of the investigation and any hearing(s). This decision will be made by the General Council if the accused is a Tribal Council member, or by the Tribal Council as to any other accused persons.

5.5 Other Actions By Tribal Council.

- (a) Once the investigation has been completed, the Tribal Council shall convene in executive session to review the matter and determine whether
  - (1) it should conduct a hearing regarding the alleged violation;
  - (2) it should refer the matter to the General Council for hearing;
  - (3) the matter should be handled by Tribal Administration under the Tribe's personnel policies and procedures; or
  - (4) the matter should be dismissed for lack of evidence or for other good cause.

- (b) The Tribal Council shall document the basis for its determination in compliance with this Ordinance.
- (c) The Tribal Council shall, within five (5) business days after its review of the matter, provide written notice to any person(s) that filed a report under section 5.5 of its determination regarding how to proceed. If the Tribal Council's decision is to dismiss the matter, the person(s) shall be notified of his/her/their right to appeal that determination to the General Council.
- (d) The Tribal Council shall report at each General Council meeting the existence of every reported or suspected violation of which it has become aware prior to the meeting, the status of the investigation, and any determinations made by the Tribal Council regarding the disposition of the matter.

**5.6 Hearings.** Once the investigation is complete, and the Tribal Council has determined that there are grounds to proceed regarding the alleged violation, the matter shall be set for hearing by the Tribal Council or the General Council depending on who is alleged to have committed the violation (see Section 5.1).

- (a) Written notice of the hearing date, time and location shall be provided to the person(s) filing the report, the accused, and any witnesses, at least ten (10) days in advance of the hearing.
- (b) At the hearing, all the person(s) that filed the report regarding the violation shall first have the opportunity to present the charges or, if none, the Tribal Council shall present the charges.
- (c) The accused Tribal Representative shall then have an opportunity to respond to the charges.
- (d) Any witnesses with relevant knowledge or information of the matter may be called to give testimony. To this end, the General Council and Tribal Council shall have the power to issue orders to appear, which shall constitute lawful orders of the Tribal Government.

**5.7 Failure to Cooperate.** Any person that fails to cooperate in the Tribal Council's investigation, or fails to appear if ordered by the Tribal Council or General Council, or fails to give full and honest testimony at a hearing shall be subject to the enforcement provisions and penalties set forth in this Ordinance.

**5.8 Decision by Tribal Council.** If the matter is heard by the Tribal Council, the Tribal Council shall issue to all parties a written decision within ten (10) days of the conclusion of the hearing. The decision shall include the Tribal Council's determination as to what, if any, violations have occurred and appropriate penalties to be imposed. This decision shall be appealable to the General Council in accordance with section 5.11 below, subject to the limitations set forth in section 4.3 above.



5.9 Decision by General Council. If the matter is heard by, or appealed to, the General Council, the hearing shall be conducted and a decision shall be made by secret written ballot and announced at a meeting at which a quorum is present. Any decision of the General Council shall be final and not subject to further appeal.

5.10 Elected Officials. If an elected official is found by the General Council to have violated this Ordinance, it may recommend the initiation of removal proceedings, if applicable, in accordance with Article 4, Sections 7 and 9 of the Constitution, or at the initiation of recall proceedings in accordance with Article 4, Sections 8 and 9 of the Constitution and Section 7 of the Election Ordinance.

5.11 Appeal.

(a) Any person that the Tribal Council has found to have violated this Ordinance may appeal decisions and penalties to the General Council if the penalties include any of the following:

- (1) Suspension or termination from a paid position
- (2) Financial reimbursement and/or fines, or
- (3) Community service.

(b) To appeal the decision to the General Council, the accused person shall submit to the Tribal Chairperson, within seven (7) days of receipt of the Committee's decision, a written request for appeal that explains the reasons for the appeal. Any such appeal shall be heard and decided at the next scheduled General Council meeting at which there is a quorum. If there is no quorum, the Tribal Chairperson shall call a Special Meeting to occur no later than 45 days following the meeting without a quorum.

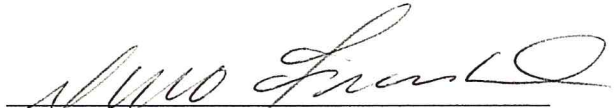
5.12 Failure of Tribal Council to Act. If the Tribal Council, or any of its members, fails to timely perform any duty defined in this section 5 (and, in particular, sections 5.4, 5.5, 5.6, 5.8 and 5.11), the General Council may designate one or more person(s) to implement those duties.

**Section 6. Employment Status.** Nothing in this Ordinance is intended to, or shall be construed to, affect the status of any Tribal staff that may be designated an "at-will" employee.

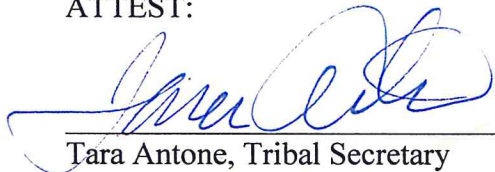
**Section 7. Effective Date.** This Ordinance, as amended, shall take effect immediately upon its approval by the General Council, and shall remain in effect unless and until amended or repealed.

### 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 amendments redlined into the foregoing Ethics and Conduct Ordinance were approved by the General Council at a duly called regular meeting at which a quorum was present on August 12, 2018, by a vote of 47\_ for, \_3\_ against, and \_1\_ abstaining.

  
Dino Franklin, Tribal Chair

ATTEST:

  
Tara Antone, Tribal Secretary