



Burns Paiute Tribe

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BURNS PAIUTE TRIBE Burns Paiute Tribal Council

RESOLUTION NO. 17-15

Adopting Revised Tribal Government Laws as Chapter 1.4 of the Burns Paiute Tribal Code

WHEREAS, the Burns Paiute Tribe (“Tribe”) is a federally recognized Indian Tribe and has adopted a Tribal Constitution (“Constitution”) designating the Burns Paiute Tribal Council as the elected governing body of the Tribe; and

WHEREAS, Article V, Section 10(a) of the Constitution requires the Tribal Council to establish its own rules of procedure, and Article VI, Section 1 authorizes the Tribal Council to establish policies and define duties and procedures for the Tribal government, and enact laws to govern conduct, maintain order, and protect the safety, health and welfare of all persons within the Tribe’s jurisdiction; and

WHEREAS, the Tribal Council adopted a Tribal Council Policy and Procedures Code and a Tribal Government Organization and Procedures Code in 2005-2006, consolidated these laws into one Tribal Government Ordinance (“TGO”) in 2007, and amended the TGO in 2009 and 2010; and

WHEREAS, the Tribal Council initiated an extensive review and revision of the TGO in 2016 to further clarify the powers and responsibilities of the various units of the Tribal government; and

WHEREAS, the Tribal community has been given the opportunity to review the proposed revised Tribal government laws and provide their input; and

WHEREAS, the Tribal Council has reviewed the revised Tribal government laws and considered the community’s input, and has voted to approve the adoption of the revised Tribal government laws; and

WHEREAS, in an effort to include all Tribal laws in the Burns Paiute Tribal Code, the Tribal Government Ordinance has been re-numbered and re-formatted as Chapter 1.4 of the Burns Paiute Tribal Code.

CHAPTER 1.4 TRIBAL GOVERNMENT

1.4.1 Purpose

The purpose of this Chapter is to set forth the powers and responsibilities of the various units of the Tribal government, and to establish consistent and effective standards and procedures for carrying out Tribal government functions.

1.4.2 Authority

The authority for this Chapter is found in Article V, Section 10(a) of the Burns Paiute Tribal Constitution, which requires the Tribal Council to establish its own rules of procedure, and in Article VI, Section 1, which authorizes the Tribal Council to establish policies and define duties and procedures for the Tribal government, and to enact laws to govern conduct, maintain order, and protect the safety, health and welfare of all persons within the Tribe's jurisdiction

1.4.3 Definitions

(a) "Executive Session" means a session of the Tribal Council that is closed to all persons except Tribal Council members, express invitees, as necessary staff, as designated by the Tribal Council. An executive session must be commenced and adjourned by motion, and may not be recorded. No final or official Tribal Council action may be taken in an executive session.

(a) "Gross misconduct" means unethical, improper, or unlawful conduct that is intentional, reckless, or in deliberate indifference to the Tribe's interests. Gross misconduct may include but is not limited to violation of the Tribe's "zero tolerance" drug and alcohol free workplace policy, failure to comply with the Code of Ethics, or violation of any other provision of this Chapter.

(b) "Neglect of duty" means the failure to properly perform duties. Neglect of duty may include but is not limited to:

- (1) The failure to properly perform duties is intentional, knowing, or deliberate;
- (2) The individual's conduct shows a reckless disregard for the consequences of his or her actions or failure to act; or
- (3) The individual has repeatedly performed negligently, after a prior warning or reprimand.

BURNS PAIUTE TRIBAL COUNCIL

1.4.4 Duties of Tribal Council Members

The Tribal Council is responsible for ensuring that the Tribe's legislative, executive, and judicial functions are carried out. All Tribal Council members are expected to:

(a) Attend all regular and special meetings of the Tribal Council and General Council.

(1) A Tribal Council member must provide the Tribal Council Chair, Vice-Chair, or Secretary-Treasurer with notice at least 24 hours prior to any meeting that he or she will miss.

(2) The Tribal Council may excuse a Tribal Council member from a meeting if he or she has provided a valid excuse. A valid excuse may include but is not limited to:

- (A) Personal illness or illness in the immediate family;
- (B) Work obligations that cannot be altered or changed;
- (C) A medical appointment that cannot be altered or changed;
- (D) Participation in other pressing Tribal Council business;
- (E) A funeral;
- (F) Hazardous weather conditions; or
- (G) Other circumstances beyond the control of the Tribal Council member.

(b) Actively participate in all matters coming before the Tribal Council, including providing input, stating beliefs, and offering alternatives and recommendations, in a timely manner.

(c) Keep up to date on Tribal Council business, and review documents and carry out assignments on behalf of the Tribal Council in a timely manner.

(d) Consider the well-being of the Tribe and the needs and rights of current and future generations in all official decision-making.

(e) Promote cooperation and teamwork between the Tribal Council and Tribal departments, programs, committees, boards, entities, and the Tribal membership.

(f) Publicly support the official decisions of the Tribal Council, regardless of personal views.

- (g) Serve on committees, as requested by the Tribal Council.
- (h) While on travel status, attend all required meetings and events.

1.4.5 Code of Ethics for Tribal Council Members

- (a) Tribal Council members are expected to maintain high standards of honesty, integrity, fairness, and impartiality, and to act in accordance with the Code of Ethics set forth in Appendix B.
- (b) Violation of the Code of Ethics or any other provision of this Chapter may be considered gross misconduct and is grounds for removal or other discipline, in accordance with Sections 1.4.22 – 1.4.23 of this Chapter.

1.4.6 Tribal Council Member Prohibitions

- (a) Individual Tribal Council members are not authorized act on behalf of the Tribal Council, unless:

- (1) The Tribal Council, as a whole, has approved the action, though a majority vote by a quorum; or

- (2) The action is otherwise necessary to carry out the Tribal Council member's duties as a Tribal Council officer.

- (b) The Tribal Council has delegated authority to the Tribe's General Manager(s) ("GM") to manage Tribal programs. Tribal Council members may address program concerns with the GM, but may not directly manage Tribal staff; *provided that*:

- (1) The Tribal Council may manage Administrative staff where the GM has authorized such staff to perform duties for the Tribal Council.

- (2) Tribal Council members who are Tribal employees may manage Tribal staff as part of their official job duties.

- (3) Tribal Council members who receive Tribal services may interact with Tribal staff in their capacity as individual Tribal members, but must always be mindful of their positions of influence within the community.

- (c) No Tribal Council member may serve as a Gaming Commissioner during his or her term in office.

1.4.7 Drug and Alcohol Policy

- (a) Tribal Council members must comply with the Tribe's "zero tolerance" drug and alcohol free workplace policy, which is set forth in the Tribe's Employment Policy

Manual. Participation in any Tribal Council business is the Tribal Council member's "work," "employment," "workplace," etc. for purposes of the policy.

(b) Tribal Council members must comply with the following drug and alcohol testing rules and procedures:

(1) Within 2 business days of the date that any newly elected or appointed Tribal Council member takes the oath of office, every Tribal Council member must sign a drug and alcohol testing consent form and submit to a drug and alcohol test.

(2) If the Tribal Council has reasonable suspicion that a Tribal Council member is or has been under the influence of alcohol or illegal drugs or involved in an accident while engaged in Tribal Council business, the Tribal Council may, by majority vote, ask the Tribal Council member to immediately submit to a drug and alcohol test.

(3) Drug and alcohol test samples must be taken by the Tribe's Registered Nurse ("RN"), or if the RN is not available, by the Tribal Police Department. The sample must be submitted for testing on the same day that the sample is taken.

(4) Drug and alcohol test results must be sent directly to the Tribal Council Chair; *provided that* test results for the Chair must be sent to the Vice-Chair.

(5) The Tribal Council officer who receives the test results must announce the results to the Tribal Council at the next Tribal Council meeting. After the announcement, the test results must be kept in a secure file.

(c) The Tribal Council may initiate discipline, including removal, in accordance with Sections 1.4.22 – 1.4.23 of this Chapter, based on positive test results or the refusal to submit to a drug and alcohol test when requested in accordance with this Section.

(d) The cost of drug and alcohol testing for Tribal Council members will be paid for out of the Tribal Council budget.

1.4.8 Terms of Office

(a) Newly elected or appointed Tribal Council member(s) must be sworn in at the first regularly scheduled Tribal Council meeting after their election or appointment, and begin their term of office immediately upon taking of the oath of office.

(b) The Secretary-Treasurer must provide each newly elected or appointed Tribal Council member with a copy of the Tribal Constitution and this Chapter.

(c) The terms of office for Tribal Council members are 3 years, and shall be staggered; *provided that* when there is a vacancy on the Tribal Council:

(1) The Tribal Council must appoint a new member, in accordance with Section 1.4.26 of this Chapter, to serve until the next annual Tribal Council election; and

(2) At the next annual Tribal Council election, the Tribe must elect a successor to complete the remainder of the vacated term.

(d) After completing his or her term of office, each Tribal Council member shall hold office until a successor has been certified and seated.

1.4.9 Oath of Office

(a) Each newly elected Tribal Council member must take and sign the following oath of office:

I, _____, do solemnly swear that I will uphold the Constitution and Bylaws of the Burns Paiute Tribe, and that I will serve the Tribe to the best of my ability. I will responsibly represent the Tribe, and will maintain high standards of honesty, integrity, fairness, and impartiality. I will promote and protect the best interests of the Tribe, will work for the entire membership of the Tribe, and will declare when a conflict of interest could affect the performance of my duties on behalf of the Tribe. I will protect confidential information, will use Tribal property responsibly, and will return all Tribal property in my possession when I leave office. I will carry out the directions of the Tribal Council, and will perform the duties of my office in accordance with the Constitution and the laws and policies of the Burns Paiute Tribe.

(b) The Tribal Council Chair is responsible for administering the Oath; *provided that* the Vice-Chair shall administer the oath to the Chair.

(c) The Tribal Council must keep a copy of all signed oaths on file.

1.4.10 Election of Tribal Council Officers

(a) Within 30 calendar days of the annual Tribal Council election, the Tribal Council must elect a Chair, Vice-Chair, Secretary-Treasurer, and Sergeant at Arms.

(1) The Chair of the prior Tribal Council must preside over the meeting to elect officers. If the prior Chair no longer serves on Tribal Council, an officer of the prior Tribal Council must preside over the meeting. If no officers of the prior Tribal Council serve on the Tribal Council, the Tribal Council must choose a person to preside over the meeting.

(2) A Tribal Council member may nominate any other Tribal Council member for an officer position. The nomination must be seconded by a different Tribal Council member, or the nomination will be deemed withdrawn.

(3) All Tribal Council members must be present at the meeting to elect officers. Each Tribal Council member, including the acting Chair, may vote on all officer positions, including a position for which he or she has been nominated.

(4) The vote to elect officers must be conducted by secret ballot. Officers must be elected by majority vote.

(b) Tribal Council officers hold office from the time of their election until:

(1) A new officer is elected to the office after the next Tribal Council election; or

(2) The officer resigns or is removed or recalled from office.

(c) In the event of a vacant Tribal Council officer position, the Tribal Council must elect a new officer within 30 calendar days of the vacancy.

1.4.11 Tribal Council Chair

The duties of the Tribal Council Chair include but are not limited to:

(a) Serve as the spokesperson for the Tribe and represent the Tribe in name and title. Only the Chair, or his or her designee, is authorized to speak on behalf of the Tribe.

(b) Correspond and meet with governments and entities on behalf of the Tribe.

(c) Call for and preside over Tribal Council and General Council meetings, and other meetings as necessary, to conduct Tribal business.

(d) Present and explain the position of the Tribe on all matters of importance.

(e) Sign documents on behalf of the Tribe.

(f) Set the agenda for regular Tribal Council meetings and provide the agenda to the Secretary-Treasurer for preparation and distribution.

(g) Delegate tasks to Tribal Council members.

(h) Coordinate with the Tribe's GM, and communicate direction from the Tribal Council to the GM, as appropriate.

1.4.12 Vice-Chair

The Vice-Chair must assist the Chair with his or her official duties, and fulfill the duties of the Chair in the Chair's absence.

1.4.13 Secretary-Treasurer

The duties of the Tribal Council Secretary-Treasurer include but are not limited to:

- (a) Manage Tribal Council correspondence, including preparing correspondence from the Tribal Council and forwarding correspondence to the Tribal Council.
- (b) Notify Tribal Council members and the Tribe's Administrative Secretary of Tribal Council meeting dates, and arrange for the schedule of regular Tribal Council meetings to be published in the Tribal newsletter.
- (c) Notify the Tribal membership of the date, time, place, and agenda of all General Council meetings, at least 5 business days before the meeting.
- (d) Ensure that all official Tribal notices are posted, including notice of the adoption of all new or revised Tribal laws and Tribal policies or procedure manuals.
- (e) Prepare agendas for regularly scheduled Tribal Council meetings, in coordination with the Chair, and distribute agendas and related documents.
- (f) Prepare or arrange for the preparation of Tribal Council resolutions, as needed to document Tribal Council decisions.
- (g) Take minutes at all Tribal Council meetings, review the minutes for accuracy, and present the minutes for approval at the next Tribal Council meeting.
 - (1) The minutes must include:
 - (A) The names of all the Tribal Council members and guests present at the meeting, the name of the presiding officer, and a record of excused and unexcused Tribal Council member absences;
 - (B) A description of all motions, proposals, and resolutions considered, and their disposition, and the subject of any other discussions, including reference to any document(s) discussed; and
 - (C) The results of all votes, including the vote of each member by name.
 - (2) If another person prepares the minutes, due to the Secretary-Treasurer's absence, the Secretary-Treasurer must review the minutes before the minutes are presented for approval.
- (h) Certify the content and accuracy of Tribal Council minutes, Tribal Council resolutions, and other official documents.
- (i) Forward approved Tribal documents to relevant entities, including but not limited to:

(1) Providing a copy of all approved minutes from all open Tribal Council meetings to the Tribal Administration Office and the Tribal attorney; and

(2) Providing a copy of all approved Tribal Council resolutions, Tribal laws, and Tribal policies or procedure manuals to the Tribal Administration Office, the Tribal attorney, the Tribal Court Clerk, and any affected Tribal departments.

(j) Review Tribal Council record keeping practices and advise the Tribal Council on record keeping practices.

(k) Maintain an updated list of individuals who the Tribal Council has authorized to sign checks on behalf of the Tribe.

(l) Monitor the Tribe's fiscal policies and practices, review the Tribe's financial audits, and report to the Tribal Council on the financial integrity of the Tribe.

(m) Provide an annual financial statement to the General Council.

(n) Monitor Tribal Council travel, and report to the Tribal Council on any outstanding or delinquent travel accounts.

(o) Work with Tribal administrative staff, as needed, to carry out record-keeping and financial duties.

(p) Fulfill the duties of the Chair in the absence of both the Chair and the Vice-Chair.

1.4.14 Sergeant at Arms

The Sergeant at Arms is responsible for maintaining order at Tribal Council and General Council meetings. If a person is unruly, the Sergeant at Arms is responsible for handling the situation by asking the person to be quiet or leave. If the person refuses to be quiet or leave, the Sergeant at Arms must contact the Tribal Police for further action.

1.4.15 Check-Signers

At the first Tribal Council meeting following the certification of the annual Tribal Council election, the Tribal Council must appoint individuals authorized to sign checks on behalf of the Tribe, and must complete all required paperwork with the applicable bank(s).

1.4.16 Tribal Council Meetings

(a) The Tribal Council must meet at least once each month, at a designated regular time, and must publish a schedule of all regular meetings. The Tribal Council may hold additional meetings as needed.

(b) Special meetings of the Tribal Council may be called by the Chair, or by 3 Tribal Council members. The person(s) calling a special meeting must make a reasonable effort to provide written notice of the meeting to each Tribal Council member and to the General Council.

(c) All meetings of the Tribal Council are open to Tribal members, Tribal staff, and invited guests; *provided that* the Tribal Council may vote to recess into a closed Executive Session to discuss any matter, if the subject to be discussed is expressed in the motion calling for the Executive Session and no official action is taken in the closed session.

(d) Tribal Council meetings may not be video or voice recorded without the express permission of the Tribal Council.

(e) Any person may ask the Tribal Council Chair to be added to a Tribal Council meeting agenda; *provided that* if a Tribal Council meeting agenda is full, the Chair may place a non-urgent matter on the agenda for the following meeting. Agenda requests must be submitted in accordance with any deadlines set by the Tribal Council.

(f) The Chair is responsible for conducting orderly meetings and promoting informed decision-making. The Chair presides over Tribal Council meetings as follows:

(1) Call the meeting to order at the designated place and time;

(2) Adhere to the agenda and follow orderly meeting procedures, using Robert's Rules of Order as a guide;

(3) Recognize speakers wishing to address the Council, in accordance with Subsection (h) of this Section; and

(4) Call for and recognize motions and seconds, summarize discussions and debates prior to a vote, and conduct voting on motions.

(g) All questions of procedure shall be decided by the Chair, or by majority vote of the Tribal Council if there is any objection to the Chair's ruling.

(h) Tribal members, Tribal staff, and invited guests may address the Tribal Council, subject to the following provisions:

(1) A person wishing to speak must request the floor.

(A) The Chair may recognize speakers, as the agenda and time allow, in turn, in an orderly manner; *provided that* Tribal Council members must be given priority over other persons wishing to speak.

(B) Matters that are not included on the agenda may be addressed only during the “Other Business” portion of the meeting.

(C) The Tribal Council will hear complaints only in accordance with the complaint process set forth in Sections 1.4.43 - 1.4.45 of this Chapter. If a speaker has not complied with the complaint process, the Chair may interrupt the speaker and direct them to the complaint process.

(2) All persons must speak in a civil manner, and are encouraged to provide documents in support of requests or concerns. The Tribal Council will not tolerate personal attacks on anyone, and will not take action based on rumors.

(3) Persons who are speaking must not be interrupted, except where necessary to seek clarification; *provided that* the Chair may politely interrupt a speaker, as needed, to avoid repetition or to keep the meeting on schedule.

(i) The Tribal Council may, by motion, recess a meeting and continue the meeting at a later time, without further notice. The Tribal Council may adjourn a meeting at any time, particularly where malicious attacks are being made against the Tribal Council or Tribal staff.

1.4.17 Quorum; Voting

(a) The Tribal Council may conduct official Tribal business only when a quorum is present, and may take official action only when the action is approved by a quorum.

(1) A quorum requires the presence of at least 5 Tribal Council members. The presence of the Chair counts toward a quorum.

(2) In the absence of a quorum, the Chair must announce the lack of a quorum. The Tribal Council may discuss relevant issues and hear from Tribal members, Tribal staff, and other guests, but may not take official action.

(b) The Tribal Council shall vote in accordance with the following procedures:

(1) The proposed action must be within the authority delegated to the Tribal Council pursuant to the Tribal Constitution.

(2) To initiate a vote, a Tribal Council member must make a motion for a vote, and another Tribal Council member must second the motion. The Chair may motion for or second a vote to assist in conducting business.

(3) After a motion is seconded, the Chair must call for a vote. A quorum must be present when the vote is called.

(4) A vote may be taken by voices, raised hands, or roll call vote. The Chair may not vote, except when needed to break a tie or as otherwise provided in this Chapter.

(5) A motion is approved and binding if it has been approved by a majority vote of the quorum; *provided that*:

(A) The removal of a Tribal Council member from office requires at least 4 votes.

(B) A vote may be rescinded by a majority vote of the quorum, unless action has been taken, based on the vote, which the Tribal Council cannot undo.

1.4.18 Tribal Council Records

(a) Minutes of all open Tribal Council meetings and copies of all approved Tribal Council resolutions, Tribal laws, and Tribal policies or procedure manuals must be maintained and available for review at the Tribal Administration Office. Copies of all approved Tribal laws must also be maintained at the Tribal Court.

(b) The Tribal Council Secretary-Treasurer is responsible for:

(1) Providing a copy of all approved minutes from all open Tribal Council meetings to the Tribal Administration Office and the Tribal attorney; and

(2) Providing a copy of all approved Tribal Council resolutions, Tribal laws, and Tribal policies or procedure manuals to the Tribal Administration Office, the Tribal attorney, the Tribal Court Clerk, and any affected Tribal departments.

1.4.19 Phone Polls

(a) The Chair may call for a phone poll when pressing Tribal Council business needs approval prior to a regular or special meeting of the Council.

(b) The Secretary-Treasurer is responsible for conducting the phone poll; *provided that* if the Secretary-Treasurer is not available, the Chair may conduct the phone poll.

(c) The phone poll must be made a part of the record at the next Tribal Council meeting.

1.4.20 Compensation

(a) The Tribe's current financial situation prevents the Tribe from paying salaries or providing benefits to Tribal Council members. If additional funding becomes available, Tribal Council members may receive salaries and/or benefits.

(b) The Tribe may pay Tribal Council members a stipend if funding is available, the stipend is included in the Tribal Council budget, and the Tribal Council member complies with the provisions of this Chapter, and all applicable laws and policies governing the services for which the stipend is paid.

1.4.21 Travel Policy

The Tribe must pay for or reimburse travelling Tribal Council members for approved travel expenses, in accordance with the following rules and procedures:

(a) All travel must be approved in advance. To obtain approval, Tribal Council members must complete and submit a Travel Request Form prior to travel. The Tribal Council Chair, Vice-Chair, and Secretary-Treasurer may approve travel; *provided that* an officer may not approve his or her own travel.

(b) Allowable travel costs include:

- (1) Mileage to and from meetings, at federal rates;
- (2) Per diem, as established by the IRS for the area or city of travel;
- (3) Ground transportation costs, including parking fees, taxis, and other public transport fees;
- (4) Lodging, at the "government rate," unless that rate is unavailable within a reasonable distance of the meeting or event; and
- (5) Air Travel, in "coach" class, unless the traveler requires an accommodation due to a physical disability and the Tribal Council approves the accommodating airfare.

(c) Unallowable travel costs include:

- (1) Personal travel;
- (2) Lodging-related costs that exceed the actual cost of the lodging, such as telephone fees, pay-per-view movies, room service, mini-bar expenses, etc.;
- (3) Parking tickets, traffic infractions, criminal charges or convictions, and any related costs; and
- (4) Costs that exceed the daily per diem rate.

(d) The Tribal Administration is responsible for processing Tribal Council member travel, tracking outstanding and delinquent travel accounts, and reporting any outstanding or delinquent travel accounts to the Tribal Council Secretary-Treasurer.

(e) No later than 10 business days after returning from travel, a traveling Tribal Council member must provide the Tribal Administration with all required documentation. Required travel documentation includes:

- (1) A completed travel request form;
- (2) The required trip report and the signature of the traveler;
- (3) All necessary receipts; and
- (4) All required signatures of the Chair, Vice-Chair, or Secretary-Treasurer.

(f) If a Tribal Council member fails to submit all required travel documentation in a timely manner, the Tribal Council and/or the Tribal Administration may issue a travel freeze, revoke the Tribal Council member's Tribal credit card, and/or seek a reprimand.

(g) Tribal Council members may use a Tribal credit card for lodging, per diem, car rental, airfare, gasoline, and emergencies.

(1) Tribal Council members must submit all credit cards receipts to the Tribal Administration after each use. If a Tribal Council member fails to return credit card receipts within 10 business days of the credit card charges, the Tribal Council member must pay any past due charges imposed by the credit card company. Such charges will be billed to the Tribal Council member's Accounts Receivable ("A/R") account, in accordance with the Tribe's A/R policies.

(2) Tribal Council members must reimburse the Tribe for any unallowable or unauthorized credit card charges. Any charges that are not reimbursed in a timely manner will be charged to the Tribal Council member's A/R account, in accordance with the Tribe's A/R policies.

(3) The Tribal Council may initiate discipline, including removal, in accordance with Sections 1.4.22 – 1.4.23 of this Chapter, for inappropriate or unauthorized use of a Tribal credit card.

(h) A Tribal Council member may receive travel expenses in advance of travel if the travel request and travel-related expenses have been approved in accordance with this Section and any other applicable laws or policies. If travel is cancelled after travel expenses have been advanced, the Tribal Council member must return the total amount of the advanced travel funds to the Accounting Department within 10 business days of notification of the cancelled travel.

(i) If the Tribal Council receives a credible report that a Tribal Council member has failed to attend a meeting, conference, or event, or to perform other official business related to the purpose of the travel, the Tribal Council must order the Tribal Council member to

pay for all travel costs, and to return any advanced travel funds to the Accounting Department, within 10 business days.

(1) The Tribal Council member may challenge the order by providing evidence to the Tribal Council that he or she did attend the meeting, conference, or event, or performed other official business while travelling.

(A) The Tribal Council must vote on whether the Tribal Council member should be required to return advanced travel funds.

(B) If the Tribal Council finds that the Tribal Council member attended some or part of the meeting, conference, or event, or performed other official business related to the purpose of the travel, the Tribal Council may permit the Tribal Council member to pay only a prorated portion of the travel costs.

(2) If a Tribal Council member fails to pay for or return advanced travel funds as required by this Subsection, the funds will be deducted from the Tribal Council member's next stipend(s) or reimbursement check(s), or will be billed to the Tribal Council member's A/R account, in accordance with the Tribe's A/R policies..

(j) All use of Tribal vehicles by Tribal Council members must comply with the Tribe's vehicle use policies.

(k) A travelling Tribal Council member may receive a stipend for his or her time while traveling on official business.

1.4.22 Misconduct; Discipline

If a Tribal Council member has failed to perform his or her duties or has otherwise failed to comply with the requirements of this Chapter, the Tribal Council may vote to take one or more of the following actions, depending on the severity of the misconduct:

(a) Issue the Tribal Council member an oral and/or written warning. A warning is intended to educate the Tribal Council member about his or her duties and encourage compliance.

(b) Issue the Tribal Council member a written reprimand, and publish the reprimand in the Tribal newspaper. No Tribal Council member may be reprimanded unless he or she has first been given a fair opportunity to respond to the proposed reprimand at a regular meeting of the Tribal Council.

(c) Impose other appropriate sanctions or pursue other remedies.

(d) Initiate removal proceedings, in accordance with Section 1.4.23 of this Chapter.

1.4.23 Removal of a Tribal Council Member from Office

(a) A Tribal Council member may be removed from office by the Tribal Council for:

- (1) Failure to satisfy the requirements for office set forth in the Tribal Constitution.
- (2) Absence from 3 consecutive meetings of the Tribal Council and/or General Council, without being excused by the Tribal Council.
- (3) Gross misconduct or neglect of duty, as defined in Section 1.4.3 of this Chapter.
- (4) Conviction of a felony while in office.
- (5) Becoming mentally or physically incapable of performing the duties required by the office.

(b) Before the Tribal Council votes on the proposed removal of a Tribal Council member from office:

(1) The Tribal Council must schedule a Special Tribal Council meeting to give the Tribal Council member facing removal an opportunity to respond.

(2) The Tribal Council must provide the Tribal Council member facing removal with a reasonable and detailed written statement of the reasons for the proposed removal, at least 5 business days prior to the Special Tribal Council meeting. The statement must be written by the Tribe's attorney, in coordination with the Tribal Council Chair and/or Secretary-Treasurer, whenever possible.

(3) At the Special Tribal Council meeting, the Tribal Council member facing removal must be given a fair opportunity to reply to the allegations and to present evidence on his or her behalf. The meeting must be open to the public.

(c) The Tribal Council member may be removed from office after the hearing, if at least four (4) members of the Tribal Council vote in favor of removal. The vote must be taken immediately after the hearing. The Chair may vote if he or she is not the subject of the removal proceedings.

(d) If the Tribal Council votes in favor of removal, the Tribal Council must Document the removal by Tribal Council Resolution, and must require the removed Tribal Council member to return all Tribal property within 72 hours.

1.4.24 Resignation

Any Tribal Council member wishing to resign from office must submit official notice of his or her intent to resign, in writing, to the Tribal Council Chair, Vice-Chair, or

Secretary-Treasurer. The Tribal Council must document the resignation by Tribal Council Resolution.

1.4.25 Leaves of Absence

A Tribal Council member may take a leave of absence, for up to 3 months for employment or training located outside of the area, educational purposes, illness or injury, if he or she provides advance notice of the absence to the Tribal Council Chair.

(a) The Tribal Council must document all leaves of absence by Tribal Council Resolution.

(b) A leave of absence shall not be considered a vacancy.

1.4.26 Vacancies

A Tribal Council seat may become vacant between annual Tribal Council elections due to the resignation, disability, death, removal, or recall of a Tribal Council member.

(a) A Tribal Council member facing removal or recall from office is expected to carry out his or her duties as a member of the Tribal Council during the removal or recall process, and continues to hold office until he or she is officially removed or recalled.

(b) If a Tribal Council seat becomes vacant between elections, the Tribal Council must appoint a new Tribal Council member to fill the open seat. The new member must be appointed in accordance with the following procedures:

(1) Within 30 calendar days of the vacancy, the Tribal Council must offer the vacant seat, in writing, to the candidate who received the highest number of votes but did not win a seat in the most recent Tribal Council election.

(2) If the individual described in subsection (b)(1) of this Section declines the appointment, does not meet the requirements for office, is deceased, or does not respond to the offer in a timely manner, the Tribal Council must advertise the vacancy in the next published Tribal newsletter and solicit letters of interest from Tribal members wishing to be appointed to the vacant seat.

(A) If only one eligible Tribal member submits a letter of interest, the Tribal Council must appoint him or her to fill the vacant seat.

(B) If more than one eligible Tribal member submits a letter of interest, the Tribal Council must vote, by secret ballot, to determine who will fill the vacant seat.

(3) A Tribal Council member appointed pursuant to this Section serves until the next annual Tribal Council election, at which time a successor must be elected to fill the remainder of the vacated term.

(c) If a second or subsequent Tribal Council seat becomes vacant before the next annual election, the Tribal Council must advertise the vacancy in the next published Tribal newsletter, solicit letters of interest, and appoint an eligible Tribal member to fill the vacant seat, in accordance with this Section.

TRIBAL COMMITTEES AND BOARDS

1.4.27 Committees and Boards, Generally

(a) The Tribal Constitution authorizes the Tribal Council to appoint committees, as needed, to assist the Tribal Council in carrying out its duties, and requires the Tribal Council to appoint a 3-member Election Board.

(b) The Tribal Council has appointed a 5-member Enrollment Committee, and has adopted enrollment laws governing admission to and loss of Tribal membership and maintenance of the Tribal roll.

(c) The Tribal Council has adopted election laws governing Election Board and the various types of Tribal elections.

(d) Sections 1.4.28 – 1.4.34 of this Chapter set forth the general requirements for Tribal committees and boards, including the Election Board and Enrollment Committee. The Tribal Council may set forth additional requirements, applicable to a specific committee or board, in the Tribal Code or by Tribal Council resolution.

1.4.28 Appointments

(a) At each January General Council meeting, the Tribal Council must solicit letters of interest from Tribal members wishing to fill open seats on committees and boards. The Tribal Council may solicit letters of interest at other times, as needed to fill a vacancy.

(b) The Tribal Council must appoint committee and board members, and alternates where applicable, from among the Tribal members expressing an interest in serving.

(c) If seat on any committee or board becomes vacant between terms, the Tribal Council must solicit letters of interest and appoint a new member within 30 calendar days of the vacancy; *provided that* if a vacant Election Board seat arises between terms, the Election Board must choose an alternate to fill the seat, within 30 calendar days of the vacancy, and the Tribal Council must appoint a new alternate.

1.4.29 Terms

(a) Committee and board members serve 3-year, staggered terms of office. Terms begin on the date of the Tribal Council meeting at which the member is appointed, and expire on the second Tuesday of March; *provided that* after completing a term, each member must hold office until a successor has been appointed.

- (b) Committee and board members may be re-appointed for more than 1 term, and may serve any number of terms.

1.4.30 Oath of Office; Training

(a) Upon appointment, each new committee or board member must take and sign the oath of office set forth in Section 1.4.9 of this Chapter. The Tribal Council Chair is responsible for administering the oath. The committee or board must keep a copy of all signed oaths on file.

(b) The committee or board must give the new member a copy of the Tribe's Constitution, this Chapter, and any other Tribal laws or policies relevant to their work.

1.4.31 Standards of Conduct; General Duties

(a) All committee and board members are expected to:

(1) Maintain high standards of honesty, integrity, fairness, and impartiality, and to act in accordance with the Code of Ethics set forth in Appendix B.

(2) Attend all committee or board meetings. A committee or board member must notify the committee or board at least 24 hours prior to any meeting that he or she will miss, with a valid excuse. Examples of a valid excuse are set forth in Section 1.4.4(a)(2) of this Chapter.

(3) Actively participate in all matters coming before the committee or board, and carry out assignments on behalf of the committee or board in a timely manner.

(4) Consider the well-being of the Tribe and the needs and rights of current and future generations in all official decision-making.

(5) While on travel status, attend all required meetings and events.

(6) Comply with the Tribe's "zero tolerance" drug and alcohol free workplace policy, which is set forth in the Tribe's Employment Policy Manual. Participation in any committee or board business is the member's "work," "employment," "workplace," etc. for purposes of the policy.

(b) Violation of the Code of Ethics, any applicable provision of this Chapter, or other applicable law or policy, may be grounds discipline, including for removal from office.

1.4.32 Discipline; Removal

(a) Committees and boards are encouraged to work together, and to help each other carry out their responsibilities. If a committee or board member fails to perform his or her duties, or fails to comply with the Code of Ethics, this Chapter, or other applicable

laws or policies, the other members of the committee or board may issue an oral and/or written warning. A warning is intended to educate the committee or board member about his or her duties and encourage compliance.

(b) If a committee or board member believes that another member has engaged in gross misconduct or neglect of duty, the concerned committee or board member may ask the Tribal Council, in writing, to withdraw the appointment of the offending member.

(c) If the Tribal Council believes that a committee or board member has engaged in gross misconduct or neglect of duty, or if the Tribal Council has received a request to withdraw a committee or board member's appointment:

(1) The Tribal Council must provide the member with notice of the concerns, and give the member a fair opportunity to appear before the Tribal Council to reply to the allegations and present evidence on his or her behalf.

(2) After giving the member a fair opportunity to respond:

(A) The Tribal Council may withdraw the appointment, if a majority of the Tribal Council finds that the member engaged in gross misconduct or neglect of duty. The withdrawal must be documented by Tribal Council resolution.

(B) The Tribal Council may choose to issue a warning, reprimand, or other sanctions, in lieu of withdrawing an appointment to a committee or board, or may find that no action is needed.

(d) If a committee or board member is convicted of a felony during his or her term of office, the member's appointment shall be deemed automatically withdrawn, and the Tribal Council must fill the vacancy in accordance with Section 1.4.28 of this Chapter.

(e) Election Board members may also be removed from office in accordance with Section 8.2.6 of the Tribal Code.

1.4.33 Resignation

Any committee or board member wishing to resign from office must submit official notice of his or her intent to resign, in writing, to the committee or board. The committee or board must forward notice of the resignation to the Tribal Council, and the Tribal Council must fill the vacancy in accordance with Section 1.4.28 of this Chapter.

1.4.34 Compensation and Reimbursement.

If funds are available, committee and board members may receive a stipend for their services, as determined by the Tribal Council. Committee and board members must be reimbursed for reasonable out-of-pocket expenses incurred in connection with their official duties.

ADDITIONAL SUBORDINATE ORGANIZATIONS

1.4.35 Advisory Groups

The Tribal Council may appoint an advisory group to advise the Tribal Council about any area of concern. The role of an advisory group is to provide independent information and advice to assist the Tribal Council in decision-making.

- (a) Recommendations offered by an advisory group are not binding and do not require the Tribal Council to act.
- (b) Advisory groups serve at the pleasure of and report to the Tribal Council. The Tribal Council may adopt policies, procedures, or other rules for an advisory group.

1.4.36 Other Subordinate Organizations

- (a) The Tribal Council may charter other subordinate organizations to carry out Tribal business development or other activities. Such subordinate organizations or boards shall be appointed by and report to the Tribal Council.
- (b) The Tribal Council may adopt policies, procedures, or other rules for other subordinate organizations.

LEGISLATIVE AUTHORITY

1.4.37 Tribal Constitution and Bylaws

The Constitution and Bylaws of the Burns Paiute Tribe set forth the framework for the Tribal government and the protection of individual rights. Through the Tribal Constitution, the General Council has delegated authority to the Tribal Council to enact laws to maintain order, govern conduct, and protect the safety, health, and welfare of all persons within the Tribe's jurisdiction, and the power to regulate organizations, tribal government personnel, the use of natural resources, and land use and development, subject to the restrictions and limitations set forth in the Tribal Constitution.

- (a) The Tribal Council may adopt Tribal laws that clarify and carry out the requirements of the Tribal Constitution, but Tribal laws may not conflict with the Tribal Constitution. Any Tribal law that conflicts with the Tribal Constitution is invalid.
- (b) The General Council has retained the power to participate in policymaking through the referendum process, and to propose legislation through the initiative process. These powers may be exercised in accordance with Article IX of the Tribal Constitution and Sections 8.2.38 – 8.2.40 of the Tribal Code.

(c) The Tribe may amend the Tribal Constitution only through an election called for that purpose by the Secretary of the Interior, and conducted in accordance with the Tribal Constitution and federal regulations.

1.4.38 Tribal Law: Tribal Council Resolutions and the Burns Paiute Tribal Code

(a) The Tribal Council resolutions formally set forth a Tribal position or policy or document a Tribal Council decision or action, such as decisions on matters of temporary interest, that relate to specific individuals, or that otherwise require less legal formality than a Tribal Code provision.

(1) The position, policy, decision, or action expressed in a Tribal Council resolution is generally considered to have a limited duration because it can be changed, at any time, by a vote of the Tribal Council.

(2) Tribal Council resolutions shall be substantially similar in format to the sample resolution included in Appendix C.

(3) Tribal Council resolutions have the force of law.

(b) The Burns Paiute Tribal Code sets forth the current laws of the Tribe. All formal, written laws adopted by the Tribe must be included in the Tribal Code. Tribal Code provisions may regulate persons or property, and usually relate to matters of a general and permanent nature.

(1) Each Chapter of the Tribal Code must include a statement of purpose, which clearly communicates the need for the law to present and future generations.

(2) Any Tribal law that regulates persons or property and imposes a fine for violations must be in the form of a Tribal Code provision.

(3) Any permanent amendment or repeal of an existing Tribal law must be in the form of a Tribal Code provision.

1.4.39 Adoption of New or Revised Code Provisions

(a) When the Tribal Council is considering the adoption of a new Tribal Code provision or the major revision of an existing Chapter or Section of the Tribal Code, the Tribal Council Secretary-Treasurer must ensure that:

(1) Notice of the proposed adoption is published in the Tribal newsletter. The notice must include:

(A) The purpose of the proposed new law or proposed revisions;

(B) Instructions for obtaining copies of the proposed new or revised law; and

(C) Instructions for offering comments on the proposed new or revised law, including the date of the Tribal Council meeting at which the new law or proposed revisions will be discussed.

(2) The proposed new or revised Tribal Code provision must be presented at at least one open Tribal Council meeting. Tribal members must be given the opportunity to provide comments and recommendations at the meeting and in writing.

(b) A major revision changes the Tribal Code in a way that is significant in size, amount, extent, effect, or scope.

(1) The Tribal Council may adopt minor revisions to the Tribal Code, including but not limited to technical amendments designed to correct style or punctuation or make other non-material changes, by Tribal Council resolution, without the notice, comment, and presentation requirements set forth in this Section.

(2) If it is unclear whether a proposed revision is "major," the Tribal Council must follow the notice, comment, and presentation requirements set forth in this Section.

(c) Any new or revised Tribal Code provision is effective immediately upon adoption, or may have a later effective date if the Tribal Council so provides.

(d) The Tribal Council must document the adoption of all new or revised Tribal Code provisions by Tribal Council resolution. If applicable, the resolution must include a statement of repeal, which identifies the specific prior law(s) being repealed or provides a general statement that the new or revised law supersedes and replaces any inconsistent laws or policies.

(e) The Tribal Council must publish notice of the approval of any new or revised Tribal Code provision in the Tribal newsletter.

(f) The Tribal Council Secretary-Treasurer must provide a copy of all approved Tribal laws to the Tribal Administration Office, the Tribal attorney, the Tribal Court Clerk, and any affected Tribal departments.

(g) Copies of all approved Tribal laws must be maintained at the Tribal Court and the Tribal Administration Office, and must be available for review by any Tribal member.

(1) The Tribal Court Clerk must maintain and update the Tribal Code and compile all Tribal Court orders and judgments.

(2) The GM may authorize any other interested person to review such documents.