CONSTITUTION of the
HABEMATOLEL
Pomo of Upper Lake

PREAMBLE

WE, the people, of Habematoolel Pomo of Upper Lake (hereinafter “Tribe”), in order to establish a more effective form of government, including, but not limited to, the exercise of the privileges and powers of a sovereign self-government; to secure our rights and privileges, and social economy and general welfare; to promote the stability and security of our tribe and families, and protect the interests of our children; to preserve, promote and protect our Pomo culture; and to use, conserve and control our lands and natural resources, hereby establish and adopt this Constitution. This Constitution shall govern the Tribe from the date of its adoption and subsequent approval by the Secretary of the Interior or his/her authorized representative in accordance with the terms of the Indian Reorganization Act (48 Stat. 984), as amended.

ARTICLE I - NAME
The name of the Tribe shall be the Habematoolel Pomo of Upper Lake.

ARTICLE II - TERRITORY AND JURISDICTION

Section 1. Territory
The Territory of the Tribe shall consist of the following:

A. All lands, water and resources that the Tribe has acquired.
B. All other lands, water and resources as may be hereafter acquired by the Tribe, under any grant, transfer, purchase or adjudication.

Section 2. Jurisdiction
The jurisdiction of the Tribe, its Tribal Council, and its Judiciary, shall extend to the following:

A. All persons and property within any territory under the jurisdiction of the Tribe and;
B. All judicial authorities reserved to the Tribe shall be set by Code and Ordinance, consistent with Federal Statutes of the United States.

ARTICLE III - MEMBERSHIP

Section 1. Membership
The membership of a person eligible under Section 2.A. of this Article shall not become official until all enrollment requirements have been met, the application is in compliance with the Constitution and the Enrollment Ordinance, the Enrollment Committee has submitted the application for approval, and the application has been approved by the Executive Council.
Article III – Membership
Cont’d.

Section 2. Eligibility
The following individuals shall be eligible for enrollment in the Habematolel Pomo of Upper Lake:

A. All persons listed as individuals whose names appear on the partial summary judgment in Upper Lake Pomo Association, et al., v. Cecil Andrus et al., No. C-75-0181 SW, entered May 15, 1979,

B. Persons who are lineal descendants of individuals listed in Section 2.A. of this Article may apply for membership regardless of whether the ancestor through whom eligibility is claimed is living or deceased, provided the ancestor is not ineligible under the terms of Section 3 of this Article.

Section 3. Ineligible/Relinquishment
Individuals over the age of 18 who relinquish their membership are ineligible to re-apply for membership. Children who have had their membership relinquished prior to their eighteenth birthday may apply for membership.

A. A person who is an enrolled member of another federally recognized tribe, band, colony, pueblo, rancheria, reservation, group or organization shall not be eligible for enrollment until such time as that person has relinquished all rights incident to that enrollment, such as, but not limited to, land assignments, housing, per capita payments, voting, and membership.

B. The Tribe will not enroll any person who will not relinquish their membership with another tribe.

Section 4. Enrollment Procedures

A. Enrollment procedures will be set forth in an Enrollment Ordinance enacted by the General Membership.

B. The Enrollment Committee shall consist of five persons selected by the Executive Council. In the event that less than five submit a request, the Executive Council shall appoint the necessary remaining persons at any time in lieu of the selection process.

ARTICLE IV - GOVERNING BODY

Section 1. Executive Council
The governing body of the Tribe shall be known as the Executive Council. The Executive Council shall consist of seven (7) members elected at large from the eligible voters of the Tribe.

A. The Chairperson, Vice-Chairperson, Treasurer and Secretary shall be known as the Administrative Officers of the Executive Council.
B. The Executive Council shall consist of a Chairperson, Vice-Chairperson, Secretary, Treasurer and three (3) Members-at-Large, each elected by a majority vote of the voters participating in any such election provided at least 51% of those eligible to vote have voted.

C. Except for the first election as provided for in Article VI, Section 5. B., all members of the Executive Council shall be elected for four-year terms.

Section 2. Qualifications
The qualifications of the Executive Council members shall be as follows:

1. Must be an enrolled member of the Tribe.
2. Must have tribal governing experience, including a minimum of 12 months experience and/or observation at Tribal Council meetings. Experience may include committee membership, an internship, employment by the Tribe and or employment by a Tribal program.
3. Treasurer must have knowledge of Record Keeping/Bookkeeping to perform those duties. Must submit a resume for review of experience.
4. Must be 25 years of age.
5. Must reside physically in the State of California for at least 1 year immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.
6. Must not have been convicted of a felony crime for at least 5 years immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.
7. Must not have been incarcerated at any time during the three years immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.
8. Must not be currently on probation or parole.
9. Must submit to drug testing immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.

ARTICLE V – DUTIES

Members of the Executive Council are representatives of the people and shall be under the duty to work at all times toward the advancement of the Tribe. The duties and description of the Executive Council members shall be as follows:

Section 1. Chairperson

A. The Chairperson shall be the Chief Administrative Officer of the Executive Council, and for the Tribe.
Article V – Duties

Cont’d.

B. It shall be the duty of the Chairperson to preside over all Regular, Special and General Membership meetings of the Tribe.
C. She/He shall have overall responsibility for the administration and representation of the Tribe and shall ensure that all orders, resolutions, codes, ordinances or statutes adopted by the Executive Council or the General Membership are put into effect.
D. All members of the Executive Council shall assist the Chairperson in all appropriate ways to carry out the orders as approved at all Regular, Special and General Membership meetings.
E. The Chairperson shall have the power to vote only in the event of a tie.

Section 2. Vice-Chairperson
The Vice-Chairperson in the absence of the Chairperson assumes the duties of the Chairperson.

Section 3. Treasurer

A. The Treasurer shall keep full and accurate accounts of all receipts and disbursements and shall keep and safeguard funds in the custody of the Tribe. The Treasurer shall deposit all such funds on behalf of the Tribe.
B. The Treasurer shall keep accurate records of such funds and shall report on all receipts and expenditures, the amounts and nature of all tribal funds in her/his custody to the Executive Council. She/He shall deposit all funds and other valuables in the name of the Tribe in an account designated by the Executive Council for such funds.
C. The Treasurer shall disburse the funds of the Tribe as ordered by the Executive Council and prepare statements as they may direct.
D. The books and records of the Treasurer shall be audited at least once a year by a certified auditor employed by the Executive Council, and at other such times as the Executive Council directs, or as required.
E. The Treasurer shall be able to obtain a surety bond or insurance that is satisfactory to the Executive Council.
F. In the case of the Treasurer’s resignation or removal from office, all books, papers, vouchers, funds and any and all records that are in her/his possession, under her/his control considered property of the Tribe shall be returned within 24 hours of the effective date of resignation or removal.
G. The Treasurer shall oversee and supervise the fiscal department of the tribal business office.
H. The Treasurer may receive or have rescinded a payment for services as approved or revoked by a majority vote of the full seven-member council. The Treasurer shall abstain from voting on any issues regarding a payment for services for this position. The payment for services may be revocable at any time by the General Membership; their decision is final, only they can reinstate the payment for that treasurer. Revocation of payment, whether by the Executive Council or the General Membership, shall take place only after the Treasurer receives notice and an opportunity to respond in a hearing before the body considering revocation.
Article V – Duties
Cont’d.

I. All disbursements, check approval and release of checks, other duties, authority and powers shall be regulated by procedures approved by the Executive Council in the Code of Accounting Procedures Manual and Generally Accepted Accounting Principles.

J. As a member of the Executive Council, the Treasurer shall have the power to vote at any time, unless acting as the presiding officer.

Section 4. Secretary

A. The Secretary shall attend all meetings of the Executive Council and General Membership. She/He shall record all votes, actions and the minutes of all proceedings in a book to be kept for that purpose. These records will be available for inspection by the General Membership during regular business hours.

B. The Secretary shall give, or cause to be given, notice of all meetings of the Executive Council or the General Membership.

C. The Secretary shall be under the supervision of the Chairperson. She/He shall perform such other duties and have other such authority and powers as the Chairperson shall delegate or as shall be established by motion of the Executive Council and as evidenced by approved minutes, or duly adopted ordinances or resolutions.

D. The Secretary shall have only one vote.

E. The Secretary may receive or have rescinded a payment for services as approved or revoked by a majority vote of the full seven-member Executive Council. The Secretary shall abstain from voting on any issues regarding a payment for services for this position. The payment for services may be revocable at any time by the General Membership, whose decision is final. Only the General Membership may reinstate the payment for services, with the motion of the Executive Council and certified by the minutes. Revocation of payment, whether by the Executive Council or the General Membership, shall take place only after the Secretary receives notices and an opportunity to respond in a hearing before the body considering revocation.

Section 5. Members-at-Large

Members-at-Large shall have the power to vote at any meeting. Members-at-Large shall have other such duties or authority as provided by duly adopted code, ordinance, statute or resolution. She/He shall perform such other duties and have other such authority and powers as the Chairperson shall delegate or as shall be established by motion of the Executive Council and as evidenced by approved minutes, or duly adopted ordinances or resolutions. Members-at-Large shall not possess executive power or authority to conduct business individually on behalf of the Executive Council or the Tribe.
ARTICLE VI - NOMINATION AND ELECTIONS

Section 1. Any enrolled member of the Tribe who will be eighteen (18) by or on Election Day shall be an eligible voter.

Section 2. The quorum requirements for the election shall be that number of eligible voters who cast their vote at that election.

Section 3. Nominations shall occur at a special meeting called by the Election Committee for that purpose. All nominees shall either accept or decline a nomination. All nominees must be present and shall speak as to their desire, ability or qualification regarding the position for which they have been nominated.

Section 4. Any enrolled member of the Tribe shall be eligible to be a candidate for election to the Executive Council if she/he will attain the age of twenty-five (25) by Election Day, and meets the requirements and qualifications as established by this Constitution.

Section 5.

A. The first election of the Executive Council members shall be held thirty (30) days after the effective date of this Constitution. Elections shall be every two years thereafter.

B. At the first election the Chairperson, Secretary, and two (2) Members-at-Large shall be elected to four (4) year terms. The Vice-Chairperson, Treasurer, and one (1) Member-at-Large shall be elected for two (2) year terms. Of the candidates for the three offices of Members-at-Large, the two candidates receiving the highest and second highest number of votes, respectively, shall be elected to the two offices of Members-at-Large having the four-year term. The candidate receiving the third highest number of votes shall be elected to the office of Member-at-Large, having the two-year term. Thereafter, all terms of office shall be for four (4) year terms on a staggered basis.

Section 6. The Executive Council shall appoint an Election Committee of no less than (4) persons to a two (2) year term to preside over all elections during their term. Their authority, responsibilities, procedures, and appeals shall be prescribed in an Election Ordinance enacted by the Executive Council. Should a vacancy occur and replacement be appointed, the appointment will be the remainder of the term.

Section 7. All elections shall be announced in writing at least thirty (30) days before the election pursuant to the election ordinance. Ballot voting is required for elections to be valid.
Article VI – Nominations and Elections
Cont’d.

Section 8.
Elected members of the Executive Council will be seated and shall take office at a meeting after elections are held.

Section 9.
Each official, elected or appointed, shall take an Oath of Office, prior to assuming her/his duties which shall be as follows: "I __________, do solemnly swear that I will carry out faithfully and impartially the duties of my office, that I will to the best of my ability achieve and maintain a respect for the traditions of our Pomo culture, and for the people that I represent and that I will uphold, promote, and protect this Constitution of Habematoel Pomo of Upper Lake.

ARTICLE VII - VACANCIES

Any Executive Council seat that has been vacated, whether it is by removal, recall, or forfeiture, shall be filled by appointment at the same Executive Council meeting. The appointee shall only be seated until the next quarterly meeting in which an election to fill the seat is conducted by the General Membership. The election shall be for the unexpired term of office. No more than two Executive Council members shall be removed or recalled at the same time. No more than one Executive Council member shall be removed or recalled if a seat has been forfeited, and the vacancy has not been filled.

ARTICLE VIII - REMOVAL, RECALL AND FORFEITURE

Until such time as a full working Tribal Court system is established, the Executive Council may sit as, or appoint from the Voting General Membership consistent with Article XII, a Tribal Court and/or a Tribal Court of Appeals for the purposes of this Article.

Section 1. Removal

A. Any member of the Executive Council or other official of the Tribe who, during the term for which she/he is elected or appointed, is convicted of a felony in any Tribal, Federal or State Court shall automatically be removed from office effective on the date of her/his initial conviction in court.

B. Any Tribal official formally accused of behavior involving misconduct reflecting on the dignity and integrity of the tribal government, malfeasance in office or gross neglect of duty shall be suspended by the Executive Council, until such time that a hearing is conducted by the Tribal Court (Chief Judge and three (3) Associate Judges) or the highest ranking official of the Executive Council. Any Tribal official found guilty by the Tribal Court, or the Executive Council if no court has been established or appointed, of such charges shall be removed by the Executive Council.
Article VIII – Removal, Recall and Forfeiture
Cont’d.

C. Before any decision for removal, such member or official shall be given a written statement of the charges against her/him within 24 hours after suspension. A hearing shall be set before the Tribal Court within ten days after said suspension. She/He is to appear in person, and she/he shall be given an opportunity to answer any and all charges at the designated hearing.

D. Should the person choose not to appear, the Tribal Court shall request by motion for removal by default. This decision shall be final; no further remedy shall be available.

Section 2. Appeal

A. Any Tribal Official removed by operation of Section1. A., B., or C., of this Article shall have the right of appeal. Appeals must be filed with the Secretary of the Executive Council or the established Tribal Court of Appeals within three (3) working days after a decision. A decision shall be made within 30 days after date of receipt of filing. If the Executive Council set as the Tribal Court in the removal action under appeal, the Executive Council shall appoint a Tribal Court of Appeals from the Voting General Membership, consistent with Article XII.

B. Upon receipt of a petition signed by at least 51% of the eligible voters of the General Membership, to the Election Committee and the Secretary, the Election Committee shall call and conduct within thirty (30) days an election to consider the appeal of any Tribal official.

C. The election shall be conducted pursuant to the election Articles of this Constitution and the Election Ordinance. The decision of the General Membership is final.

Section 3. Recall

A. Upon receipt of a petition signed by at least 51% of the eligible voters of the General Membership to the Election Committee and the Secretary, the Election Committee shall call and conduct within thirty (30) days an election to consider the recall of any Tribal official.

B. The election shall be conducted pursuant to the election Articles of this Constitution and the Election Ordinance. Once an individual has been subjected to recall proceedings she/he shall not again be subjected to such action during the balance of her/his term of office.

C. A recalled official shall not be eligible to be nominated or seated in any capacity of the Tribe for a period of two (2) years.
Section 4. Forfeiture

A. After due notice, it shall be the duty of the affected governmental body immediately to declare vacant any position and to promptly fill such vacancy in the manner provided in Article VI, when it is determined that the incumbent:

1. Has resigned,
2. Has been convicted of a crime involving dishonesty while in office,
3. Has been convicted of a felony while in office,
4. Has falsified or omitted information concerning any qualification or conviction of a felony or any crime involving dishonesty when elected for office,
5. Has been absent for two (2) consecutive meetings without being excused by the applicable body, in which case, he/she shall forfeit that position at the third meeting; this loss of office shall not deny a person from becoming a candidate for office in subsequent elections, or
6. Has ceased to reside physically in the State of California.

ARTICLE IX - MEETINGS

Section 1. Meetings and Order of Business

A. In order to conduct business at a Regular or Special meeting a quorum must be present in accordance with the following: a quorum shall exist if five (5) Executive Council members are present. A quorum for General Membership meetings shall be established by those members who are present for that legally called meeting.

B. The Executive Council decisions shall be in accordance with this Constitution.

C. All Executive Council members shall have a correct and clear understanding of the Constitution, their duties and responsibilities as tribal officials, management of the Rancheria affairs, tribal charters, codes, ordinances and procedures. Executive Council members demonstrating a lack of such understanding will be subject to recall pursuant to Article VIII, Section 3.

Section 2. Additional Requirements

A. Regular Executive Council Meetings
   1. Regular meetings of the Executive Council shall be held monthly, on a day established by consensus or motion by a majority of the Executive Council.
   2. All meetings shall meet the requirements to establish a quorum as identified by this Constitution.

B. Special Executive Council Meetings
   1. Special Executive meetings shall be called if at least five Executive Council members agree.
Article IX – Meetings
Cont’d.

2. All special meetings shall meet the requirements to establish a quorum as identified by this Constitution.

3. Special Executive Council meetings shall allow at least three (3) days prior notice, or be set at a Regular Meeting to conduct unfinished business. Notice of such meetings must be posted at the Tribal Office.

C. General Membership Meetings
   1. General Membership shall meet quarterly with the Executive Council.
   2. Special General Membership meetings with the Executive Council shall be convened if 51% of the voting General Membership request so, by petition. The person responsible for convening the meeting will be first the Chairperson, and in the absence of the Chairperson will then be the Vice Chairperson, Secretary then the Treasurer in that order.
   3. The meeting shall take place on the 10th day after the date the petition is submitted with the Secretary of the Executive Council.
   4. The petition shall be submitted to the Secretary of the Executive Council and the Secretary shall place the meeting on the calendar.
   5. Notification to the General Membership shall be sent within three (3) working days after the Secretary of the Executive Council’s receipt of the petition.

D. Order of Business
   1. Until such time as the Tribe shall adopt their own Rules of Order the following shall apply:
   2. The current edition of Robert’s Rules of Order shall apply in the conducting of Business, except when they are inconsistent with the express provisions of this Constitution.
   3. All Regular Meetings shall be open to all members of the Tribe, except during Personnel or Executive Sessions.
   4. The order of business at any Regular or Special Executive Council or General Membership meeting shall be specified in an agenda prior to meetings, and approved by that body once any such meeting is convened. To the extent practicable, the agenda will be posted or circulated to the General Membership prior to the meeting.
   5. Voting at all meetings may be by voice or hand, but upon a motion duly approved by that body, a secret ballot vote shall be taken.
   6. Matters brought to a vote before the Executive Council or General Membership shall be approved by a simple majority, unless specified otherwise within this Constitution.
   7. An Executive Council member shall abstain from voting on any matter coming before the Executive Council, which represents a conflict of interest. Failure of an Executive Council member to abstain from voting, or a subsequent finding by either the Executive Council or General Membership that an Executive Council member in fact profited or was personally enriched by the outcome of his/her vote, shall be grounds for removal by the Executive Council or recall by the General Membership. A conflict of interest exists when the individual would profit or be enriched personally by the outcome of his/her vote.
ARTICLE X - POWERS

Section 1.
The Executive Council shall exercise the following powers:

A. To act in all matters that concerns the general welfare of the Tribe, and to make decisions consistent with this Constitution;
B. To negotiate and make contracts with Federal, State, Local and Tribal governments and with any individual, firm or company;
C. To consult and make recommendations to the Secretary of the Interior, or to his authorized representative, with regard to all appropriation, estimates for all projects which are for the benefit of members of the Tribe, prior to the submission of such estimates to the Congress, or to the State of California. To make appropriation requests to the all Tribal, Local, State, Federal entities on behalf of the Tribe;
D. To employ legal counsel;
E. To prevent the sale, disposition, lease or encumbrance of tribal lands, interests in tribal lands, or other tribal assets without the consent of the Tribe.
F. To manage, develop, protect and regulate the use of water and minerals and to protect and preserve the wildlife and natural resources, to regulate hunting, fishing or trapping on Tribal lands within Tribal jurisdiction and to negotiate permits and leases for businesses, home site and other purposes, and generally to provide for the proper use and development of all Tribal lands, natural resources and other Tribal properties;
G. To preserve, protect and conserve the Pomo culture of the Tribe;
H. To appropriate, administer and set aside funds under Tribal control for the use and benefit of the General Membership;
I. To mortgage or to otherwise encumber Tribal trust land and to borrow from any source and assign chattels as security therefore, with the approval of the Secretary of the Interior or his authorized representative;
J. To enact codes and ordinances to regulate the use of all Tribal land through taxation or otherwise;
K. To manage and control Tribal property, community enterprises, for the development of economic projects and programs for the benefit of Tribe and establish planning, programming, development, commissions and to abide by federal laws and statutes regarding environmental impact, hazardous materials and any future circumstance;
L. To authorize, charter, and regulate enterprises, associations, and corporations formed by members of the Tribe for business or charitable purposes and to authorize formation of corporations under Federal Law for economic, charitable or public purpose;
M. To provide by resolution or ordinance the conditions upon which non-members may enter or remain within the Tribe’s territory and provide for their removal or exclusion should their presence become injurious harmful to Tribal members or to the interests of the Tribe;
N. To regulate the domestic relations of members as recognized in Article III of this Constitution; to provide for the guardianship of minors and incompetent persons within tribal jurisdiction; to advocate services for the health, education and welfare of its members under tribal jurisdiction;
Article X – Powers
Cont’d.

O. To protect those rights of inheritance, and lines of inheritance per their wishes, to those members with individual trust land in accordance with Tribal and federal law;

P. To adopt resolutions, ordinances, set codes, to regulate its own procedures, to appoint subordinate committees, commissions, boards, Tribal officials and employees not otherwise provided for in this Constitution and to prescribe their salaries, tenure and duties. Appointees may or may not be tribal members;

Q. The Executive Council may exercise such other power as may be delegated to the Tribe by statute or federal law as authorized by the Congress or its representative.

R. The Executive Council may acquire real and personal property.

S. To explicitly waive the Tribe’s sovereign immunity from suit, provided, however, that any such waiver must be specifically approved by the General Membership to be valid and enforceable. Except to the extent such immunity is explicitly and expressly waived in accordance with this provision, nothing in this Constitution is intended to nor shall be construed to waive the Tribe’s sovereign immunity from suit.

Section 2. Reserved Powers
The foregoing enumeration of powers shall not be construed to limit the powers of the Tribe, and in no way shall be deemed an abdication or forfeiture of the Tribe's inherent attributes of sovereignty, and such powers may be exercised through the adoption of appropriate resolutions, ordinances or constitutional amendments. Powers not specifically delegated are reserved to the people of the General Membership.

ARTICLE XI – LAND

Section 1. Definition
The word “land” and the phrases “Tribally-owned land” and “Tribal land”, as used in this Article, mean all interests in real property of the Tribe, whether title to which is held in trust by the United States on behalf of the Tribe or in fee. This definition specifically excludes any lands identified in the Plan for the Distribution of the Assets of the Upper Lake Rancheria, as approved by the Secretary of the Interior on January 14, 1960, when persons or entities other than the Tribe hold such lands.

Section 2. Equitable Title
Equitable title to existing tribal land or land which may be acquired in the future shall be vested in the Tribe.
Section 3. Assignments
The Executive Council shall make all assignments of land. Any member of the Tribe who has received a standard assignment may hold, use and enjoy life tenure, provided, that land must be used in an intelligent and husband-like manner. Any attempt by the assignee to lease the land on either cash or sharecropper basis shall be sufficient cause for cancellation of Standard assignments. It shall be the duty of the Executive Council to revoke standard assignments, (1) for non-use after a period of two years and (2) for any attempt of assignee to lease it. In case of physical disability of assignee, the Executive Council, by a two-thirds (2/3) majority, may grant the assignee permission to lease his assignment, provided, that such permission shall in no event extend beyond a total period of two years during the life of the assignment, except upon special dispensation of the Executive Council.

Section 4. Assignments of Heirs
At the death of a standard assignee, his or her heirs shall be given preference in the reassignment of the land, provided that such persons are members of the Tribe who would be eligible to receive a standard assignment.

Section 5. Inheritance of Lands
The Executive Council shall have the authority to regulate the inheritance of all lands within Section 1 Definition, of this Article in accordance with all applicable law.

Section 6. Trust Deeds for Assistance
Any head of a family shall be entitled to a standard assignment of land provided he deeds to the Tribe any land held in trust, or interest in land held in trust, which he or she may own at the time of such assignment. The amount of such assignment shall be based upon a calculation of the amount and quality of the land available for assignment, the number of applicants and the dependents in each family, and the expectancy of inheriting land.

Section 7. Leases
Unassigned tribal land may be leased to individual members or associations of members of the Tribe for personal, agricultural, business and other related uses to be at a price per acre to be determined by the Executive Council in accordance with a tribal Land Ordinance and for a period not exceeding fifteen (15) years. All leases shall be formalized in a written lease agreement between the Tribe and the lessee/tribal member, and shall be effective upon approval by the Secretary of Interior or his/her authorized representative as required. Proceeds from such leases shall be deposited in the treasury of the Tribe and used for the benefit of the Tribe.

Section 8. Leases for Housing
Unassigned tribal land may be leased to individual members or associations of members of the Tribe for housing purposes at a price per acre to be determined by the Executive Council in accordance with a tribal Land Ordinance and for a period not to exceed up to twenty-five (25) years with an option for another twenty-five (25) years. All leases shall be formalized in a written lease agreement between the Tribe and the lessee/tribal member, and shall be effective
upon approval by the Secretary of Interior or his/her authorized representative as required. A lessee/tribal member shall have two (2) years to improve and occupy such leased land. Proceeds from such leases shall be deposited in the treasury of the tribe and used for the benefit of the Tribe.

Section 9 Appeals
Appeals from the acts of the Executive Council in land matters, and any other land disputes, may be taken to Tribal Court of Appeals, whose decision shall be final and binding upon all parties concerned. If no working Court of Appeals has been established, the Executive Council shall appoint one from the Voting General Membership, consistent with Article XII, for purposes of an appeal under this Article.

Section 10 Land Ordinance
The Executive Council shall have power to promulgate ordinances regulating the use, assignment, and inheritance of lands, the ownership and disposition of improvements thereon and all other land matters, on all lands within the jurisdiction of the Tribes.

ARTICLE XII - JUDICIARY

Section 1. Judiciary
The judicial power of the Tribe shall be vested in the Judiciary, which shall consist of a Tribal Court and a Tribal Court of Appeals and other lower courts as deemed necessary by the Executive Council.

Section 2. Jurisdiction of the Courts
The Judiciary shall exercise jurisdiction over cases and controversies within the jurisdiction of the Tribe, in law and equity, that arise under this Constitution, the laws and customs of the Tribe, by virtue of the Tribe's inherent sovereignty, or by authority vested in Federal law.

Section 3. Power of the Courts
The Judiciary shall have the power to:

A. Interpret, construe and apply the laws of, or applicable to, the Tribe;
B. Declare the laws of the Tribe void if such laws are not in agreement with this Constitution;
C. Issue injunctions, attachments, writs of mandamus, quo warranto, review, certiorari and prohibition, and to issue writs of habeas corpus to any part of the Tribe upon petition by, or on behalf of, any person held in actual custody;
D. Establish court procedures for the Tribal Judiciary, except that the Executive Council may by ordinance alter such procedures consistent with this Constitution.

Section 4. Composition of the Tribal Court
The Tribal Court shall be composed of one Chief Judge and three (3) Associate Judges.
Article XII – Judiciary
Cont’d.

Section 5. Composition of the Tribal Court of Appeals
The Tribal Court of Appeals shall consist of one Chief Justice and Two Associate Justices.

Section 6. Manner of Selection
A. The Executive Council shall appoint one Chief Judge to the Tribal Court. The Chief Judge shall serve for a period of three (3) years.
B. The Executive Council shall appoint one Chief Justice to the Tribal Court of Appeals. The Chief Justice shall serve for a period of four (4) years.
C. The General Membership shall elect the three (3) Associate Judges of the Tribal Court and the two (2) Associate Justices of the Tribal Court of Appeals. The candidates for the three (3) Associate Judge positions on the Tribal Court who obtain the first, second and third highest number of votes that meet or exceed the majority vote requirement shall be seated. All persons after third highest shall be listed sequentially and shall be considered available for the Tribal Court of Appeals.
D. Should a vacancy occur through death, resignation or otherwise, for any of the judicial positions, the Executive Council shall appoint a person or persons to fill such vacancy or vacancies for the remainder of the term. Unless suspended, dismissed, or removed in accordance with Section 10 of this Article, appointed Chief Judges and Chief Justices shall be eligible for reappointment, and elected Associate Judges and Associate Justices shall be eligible for reelection.
E. The selection of judicial officers specified in subparagraphs a, b and c of this Section shall occur when the Executive Council determines that the Tribe is financially and otherwise prepared to maintain a Tribal Judiciary.

Section 7. Qualifications
The qualifications for Chief Judge and any Associate Judges of the Tribal Court shall be established by ordinance enacted by the Executive Council. The Chief Justice of the Tribal Court of Appeals and at least one other Associate Justice of the Tribal Court of Appeals shall be graduates of an accredited law school. No additional requirements may be added during the tenure of any of the Judges or Justices already in office, unless the additions exempt the present Judges and Justices during their term.

Section 8. Compensation
All Judges and Justices shall receive for their services reasonable compensation at rates established by the Executive Council. The Executive Council shall not diminish the compensation of any Judge or Justice during his or her term of office.

Section 9. Disqualification to Act
No Judge or Justice shall be qualified to act in any case wherein he or she has any direct interest or wherein any relatives by marriage or blood in the first degree is a party. A Judge or Justice in such circumstances must disqualify himself or herself by giving notice to the Executive Council, or in accordance with other rule or procedure established by the Executive Council.
Article XII – Judiciary
Cont’d.

Section 10. Removal of Judges and Justices

A. The Executive Council may suspend, dismiss or remove any Judge or Justice for any of the following reasons:

1. Conviction of a felony,
2. Failure to disqualify himself or herself in accordance with Section 9 of this Article,
3. Unnecessary and repeated lengthy delays in hearing and adjudicating matters filed in Tribal Court,
4. Gross neglect of duty
5. Other good cause.

B. The Executive Council may suspend, dismiss or remove a Judge or Justice for cause only by a vote of at least six (6) members of the Executive Council.

C. A Judge or Justice shall be given full due process rights including a full and fair opportunity to reply to any and all charges for which he may be suspended, dismissed or removed from judicial office.

D. No Justice shall hear a case before the Tribal Court of Appeals if he or she presided over the original proceedings or if disqualified under this Section.

Section 11. Right to Appeal
Any party to a civil action or any defendant in a criminal action who is dissatisfied with the judgment or verdict, may appeal therefore to the Tribal Court of Appeals. All matters of law and procedure may be decided by the Court of Appeals. Findings of Fact shall be made by the Tribal Court; the Court of Appeals shall reverse the Tribal Court only upon a determination that the lower court’s Findings are (1) arbitrary and capricious, and/or (2) contrary to law.

Section 12. Court Rules
The Tribal Court of Appeals consistent with the terms of this Constitution shall establish the duties and procedures of the Judiciary, and all other court matters not enumerated in this section of the Constitution.

ARTICLE XIII - TRIBAL ENACTMENTS

Section 1. Codes
All regulations regarding matters such as, but not limited to, business, environmental, jurisdiction, health, education, and welfare, shall be embodied in a Book of Codes available to the General Membership. These shall also include all federal mandates pertaining to federally recognized tribes.

Section 2. Ordinances
All final decisions on matters of general and permanent interest to members of the Tribe shall be embodied in ordinances, such as an enrollment ordinance or an election board ordinance. Such
enactments shall be available for inspection by the General Membership during normal business hours.

Section 3. Motions
Other decisions of a temporary nature or relating to particular individuals, officials or committees shall be put in the form of motions and noted in the minutes and shall be available for inspection by the General Membership during normal business hours.

Section 4. Resolutions
All final decisions on matters of short term or one time interest where a formal expression is needed shall be embodied in resolutions. All resolutions are available for review.

Section 5. Procedure
Without exception, all ordinances and resolutions shall be dated and numbered, and shall include a certification showing the presence of a quorum and the number of members voting for, against and abstentions to the proposed enactment and shall be attested to by the Chairperson and Secretary. Any ordinance or resolution that does not conform to the requirements of this section shall be void.

A. No enactment of the Tribe shall have any validity or effect in the absence of a quorum of the Executive Council thereof at a legally called session.

Section 6.
All records and/or official tribal documents in possession of outgoing Executive Council members shall be turned over to the new Executive Council within 48 hours.

ARTICLE XIV - INITIATIVE AND REFERENDUM

Section 1. Initiative
The General Membership may enact laws through the initiative process. Upon presentation to the Election Committee of a petition of at least thirty percent (30%) of the eligible voters of the General Membership, any initiative shall be submitted to that body for a vote. The Election Committee shall, upon receipt of such petition, forward a copy to the Executive Council. The Election Committee shall meet and set a time, place, and date for the initiative election in accordance with Election Committee procedures. At least fifty-one percent (51%) of the qualified voters must vote in such an initiative election, and a two-thirds (2/3) majority of those voting shall be required for the initiative to become law. The Executive Council shall adopt an ordinance setting out the procedures governing the initiative process.

Section 2. Referendum
The Executive Council may propose legislation to the General Membership for adoption by referendum. The Executive Council Secretary shall submit any issue proposed for a referendum
vote by the General Membership to the Election Committee. The Election Committee shall meet and set a time, place and date for the referendum election in accordance with Election Committee procedures. A two-thirds (2/3) majority of those voting shall be required for the referendum to become law. The Executive Council shall adopt an ordinance setting out the procedures governing the referendum process.

ARTICLE XV - BILL OF RIGHTS

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77,) the Tribe in exercising its powers of self-government shall not:

A. Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
B. Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and neither seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
C. Subject any person for the same offense to be twice put in jeopardy;
D. Compel any person in any criminal case to be a witness against himself;
E. Take any private property for a public use without just compensation;
F. Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense, to have the assistance of counsel for his defense;
G. Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year and a fine of $5,000.00 or both;
H. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
I. Pass any Bill of Attainder or Ex Post Facto law or;
J. Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE XVI – SAVINGS CLAUSE

All enactments of the Tribe adopted before the effective date of this Constitution shall continue in full force and effect to the extent that they are consistent with this Constitution. If prior enactments are not consistent with this Constitution, this Constitution governs and the prior enactments are null and void to the extent of their inconsistency with this Constitution.

ARTICLE XVII – SEVERABILITY

If a court of competent jurisdiction shall in the future declare any provision of this Constitution
Article XVII – Severability
Cont’d.

invalid, the invalid provision(s) shall be severed and the remainder of this Constitution shall continue in full force and effect.

ARTICLE XVIII - ADOPTION

This Constitution, when adopted by a majority vote at a special election called by the Secretary of Interior in which at least thirty percent (30 %) of the qualified voters of the Tribe have voted, shall be submitted to the Secretary of the Interior for approval, and shall be effective from the date of the Secretary's approval.

ARTICLE XIX - AMENDMENTS

Section 1.
This Constitution may be amended by a two-thirds (2/3) vote of the qualified voters of the Tribe, in an election called for that purpose by the Secretary of the Interior or his authorized representative. It shall be the duty of the Secretary of the Interior pursuant to 25 U.S.C. 476 (c) and 25 C.F.R. 81.5 to call an election on any proposed amendment at the request of the Executive Council or upon receipt of a petition signed by at least thirty percent (30 %) of the qualified voters of the General Membership. In order for the amendment to be enacted, at least thirty percent (30%) of qualified voters must have voted and the amendment must be approved by a two-thirds (2/3) vote. No amendment shall become effective until approved by the Secretary of the Interior or his authorized representative.

Section 2.
The Executive Council itself, or, if so delegated, a Constitutional Review Committee, shall examine, review and make recommendations on possible constitutional revisions at least annually. Changes considered necessary may be made at any time.
CERTIFICATION

We, the undersigned as Chairperson and Secretary of the Habematolel Pomo Upper Lake and Chairperson of the Election Committee, do hereby certify this Constitution was ratified on the April ________ day of 17 __________ 20 04, with the vote being ___ yes, ___ no, and ___ abstentions.

[Signatures]
Chairperson, Executive Council
Secretary, Executive Council
Chairperson Election Committee

CERTIFICATE OF APPROVAL

The Constitution of the Habematolel Pomo of Upper Lake, Lake County, California, which was adopted by the qualified voters of the Tribe on April 17, 2004, is hereby approved pursuant to the authority delegated to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended and delegated to the Deputy Commissioner of Indian Affairs by 230 D.M. 2.4 and redelegated to me by Memorandum of Agreement dated August 16, 1994.

[Signature]
Acting Regional Director

MAY 12 2004
Date
Habematoolel
Pomo of Upper Lake

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BOOK OF CODES
HABEMATOEL POMO OF UPPER LAKE
ENROLLMENT ORDINANCE

Adopted: 11-02-2018, Resolution No. 11-18-01

Ordinance Number
2018-11-01

SECTION I – TITLE

This Ordinance shall be cited as the Habematoteel Pomo of Upper Lake Enrollment Ordinance.

SECTION II – AUTHORITY

The authority for this Ordinance is Article III, section 4, of the Constitution and Bylaws of the Habematoteel Pomo of Upper Lake.

SECTION III – ENROLLMENT COMMITTEE

A. Appointment and Composition. The Habematoteel Pomo of Upper Lake Executive Council shall establish an Enrollment Committee consisting of five (5) members appointed by the Executive Council, who shall serve until their voluntary resignation, or their removal for cause, as described below.

B. Leadership. The Enrollment Committee shall appoint a Chairperson and any other position from within the Committee, as reasonably necessary to fulfill its duties under this Ordinance.

C. Removal. An Enrollment Committee member may be removed for cause, by the Executive Council on recommendation of the Enrollment Committee as follows. For purposes of this provision, cause for removal shall exist in the event of: (i) violation of duties as outlined in this Enrollment Ordinance; (ii) violation of the Confidentiality Agreement signed by the committee member, or of the terms relating to confidentiality and access of information set forth in this Ordinance; (iii) violation of the Tribe’s policies with regard to committees and members; or (iv) any other misconduct that indicates a lack of honesty or trustworthiness by the individual member at issue. The procedure for removal of a member from the Enrollment Committee shall be as follows, absent a showing of Good Cause for modification: (i) the Enrollment Committee will provide the Committee member at issue with at least ten business days’ advance written notice of the alleged violation(s) and of the Committee’s intention to recommend removal to the Executive Council; (ii) the Enrollment Committee will simultaneously provide a copy of the same written notice to the Executive Council; (iii) the Committee member at issue may provide a written response to the allegations and shall submit any such written response to the Enrollment Committee and the Executive Council, simultaneously, within three business days of receiving the written notice; and (iii) the Executive Council will ultimately decide whether removal is appropriate.

SECTION IV – CONFIDENTIALITY AND ACCESS OF INFORMATION

The Tribe recognizes that records concerning an individual’s enrollment contain sensitive, personal and familial information. These records are also critical in determining an individual’s eligibility for Tribal Membership. It is therefore required that the Enrollment Committee establish, implement, and maintain policies and procedures to protect and preserve the confidentiality of an individual’s enrollment records while also permitting legitimate access to information, in a timely manner, when appropriate.

The procedures to request and obtain Enrollment File-related information from the Enrollment Committee are as follows:

A. A Request for Information - Enrollment (RFI-E) form shall be submitted by the person requesting the information to the Enrollment Chairperson, or Enrollment Committee stating: (i) the specific enrollment file(s) at issue (by name of the applicant); (ii) the specific information requested from the enrollment
file(s); (iii) the basis for the request (why it is needed); and (iv) a description of how the information is going to be used.

B. Only certain information may be given without consent of the person/persons whose Enrollment File information is sought, and all other personal information may only be given if the person/persons whose Enrollment File information is sought has signed an Authorization Statement before the information is released. When necessary, for identification purposes only, the Enrollment Committee shall compare signatures, date of birth, and shall sign off on the request to such confirmation; all other information is classified confidential and shall not be released without a signed Authorization Statement.

C. Any enrolled Tribal Member of the Habematolel Pomo of Upper Lake may request information pertaining to their own enrollment records or that of a minor or other person for whom they are the legal guardian as follows:

1. The Enrollment Chairperson, or Enrollment Committee, shall approve or disapprove the individual’s request, and process the request for formal notice to the individual via the form entitled Response to Information Request;
2. Items that may be approved for release are: (i) items supplied by the Tribal Member/applicant or the guardian; and (ii) letters/correspondence sent to the Tribal Member/applicant or the guardian;
3. Items that may not be approved for release are: (i) Enrollment Committee or Executive Council documentation, notes, internal correspondence; and (ii) items supplied from outside the Enrollment Committee (unless supplied by the Tribal Member/applicant or guardian);
4. The Enrollment Committee upon receipt of said request shall determine if the request is able to be fulfilled and if so, provide a copy of the requested data to the individual;
5. If the request is to review the records, an Enrollment Committee member must be in attendance when a person is reviewing the record. Absent a showing of Good Cause (as determined by the Enrollment Committee), the files are only available for review in the Enrollment Office or if prior arrangements are made the Tribal Administrative Office conference room.

D. No records from any Enrollment File, whether originals or copies, shall be removed from the Enrollment or Tribal Administration offices by the requesting party or reviewed outside the presence of an Enrollment Committee member (or a designee of the Enrollment Committee), except as specified in this Ordinance (e.g., in the context of an appeal to the Grievance Review Board). On a showing of Good Cause (as determined by the Enrollment Committee), an Enrollment File or portions thereof may be removed from the Enrollment or Tribal Administration offices, but they must remain in possession of an Enrollment Committee member (or its designee), unless the materials are copies going to the Grievance Review Board, and they must be returned to the Enrollment office as soon as possible and a proper chain of custody with the Enrollment Committee (or its designee) must be strictly maintained.

E. In the event that the Executive Council is requesting information, a request must also be made in writing to the Enrollment Committee stating why it desires information from files and the purpose for such information. The Enrollment Committee will review the request and will determine the appropriate response based upon the criteria set forth in this Ordinance.

SECTION V - DELEGATION OF AUTHORITY

For the purpose of reviewing Enrollment Applications, making recommendations of acceptance or denial of an Enrollment Application, and otherwise administering this Ordinance, the Executive Council hereby delegates authority to the Enrollment Committee to make such review and recommendation on Applications for Membership with the Habematolel Pomo of Upper Lake, based on the criteria set forth in this Enrollment Ordinance, and to administer this Ordinance in the interests of the Tribe.

SECTION VI - DUTIES OF ENROLLMENT COMMITTEE

In addition to other duties set forth in this Ordinance, the Enrollment Committee shall, upon receipt of an Enrollment Application for membership into the Habematolel Pomo of Upper Lake and within the timelines set forth in this Ordinance, including but not limited to Section XI:

A. Date and initial all Applications;
B. Prepare file folder for each Applicant;
C. Review Applications for adequacy of documentation;

Adoption Date: 11/02/18
D. Determine whether an Application is complete as set forth herein;
E. Inform Applicants of any missing or supplemental documents required, using a Supplemental Information Form – Enrollment, to determine applicant's eligibility in accordance with this Ordinance and in the discretion of the Enrollment Committee;
F. Upon receipt of the requested supplemental information for the applicant's Enrollment File information, the Enrollment Committee shall review the supplemental information to determine whether it is relevant to the request for missing information and take appropriate action based upon the same;
G. Research family background and other details when more information is needed to establish an Applicant's eligibility for membership in the Tribe;
H. Maintain files on all applicants and enrolled Tribal Members, and do so in a secure manner, whether materials are in hard-copy or electronic format;
I. Prepare all written correspondence regarding enrollment matters, including, for example; (i) Acknowledgment letters; (ii) Acceptance/Denial letters; (iii) Request for More Information; (iv) Resolutions (proposed, for adoption by the Executive Council); and (v) other materials as appropriate;
J. Review Complete Applications in order to recommend action for the Executive Council to take (approval or denial of Application);
K. When the Enrollment Committee believes it is going to be recommending denial, prior to such recommendation the Enrollment Committee may request the Applicant to meet with them in an informal meeting to obtain additional information to establish Applicant's eligibility; and
L. Prepare recommendations for action on Enrollment Applications to the Executive Council pursuant to Section V, of this Ordinance, as well as related materials (e.g., draft Resolutions memorializing formal action by the Executive Council).

SECTION VII - TRIBAL ROLL DATABASE

A. The Enrollment Committee shall maintain an official Tribal Roll Database containing information relating to Tribal Members based upon the criteria and procedures set forth in this Enrollment Ordinance.
B. The following information shall be maintained in the Tribal Roll Database, for each enrolled Tribal Member at any time going forward:
   1. Full name (including any known alias)
   2. Sex
   3. Date of birth
   4. Place of birth
   5. Date of Enrollment
   6. DNA-related information (test results and related documentation)
   7. Enrollment Number
   8. Social Security Number
   9. Resolution Number
   10. Name of biological mother and tribal affiliation (if any)
   11. Name of biological father and tribal affiliation (if any)
   12. Name of children (if any)
   13. Date of birth for children (if any)
   14. Date of death for children (if any)
   15. Signature for adult Tribal Members
   16. Picture of Tribal Member
   17. Tribal Affiliation
   18. Mailing Address
   19. Physical Address
   20. E-mail Address
   21. Phone Number
   22. Date of relinquishment, if any
   23. Date of disenrollment, if any
   24. Date of death

SECTION VIII - CORRECTIONS OF TRIBAL ROLL DATABASE RECORDS

Adoption Date: 11/02/18
Any name or other information in the Tribal Roll Database shall be maintained and corrected by the Enrollment Committee. Any Tribal Member may request that the Enrollment Committee correct or supplement information contained in their own Enrollment File, or the files of their minor children or ward, contained in the Tribal Roll Database. A request for name change must be accompanied by legal documentation establishing that the name has, in fact, legally been changed (e.g., marriage license, court order, driver’s license or state-issued identification card, passport, etc.). Further, it is the duty of Tribal Members to notify the Enrollment Committee, in a timely manner, of any appropriate updates concerning information in the Tribal Roll Database for themselves and for any other Tribal Members over whom they have legal guardianship. Tribal Members shall provide such requests and notices of updates in writing by submitting the form entitled Notice of Updated Tribal Roll Database Information to the Enrollment Committee, along with any evidence and documentation related to the requested change or illustrating the need for the change.

SECTION IX - CRITERIA FOR ENROLLMENT

A. As provided in Article III of the Constitution of the Habematolet Pomo of Upper Lake the membership of the Tribe consists of all persons who, in compliance and accordance with this Enrollment Ordinance and the Constitution, have met all enrollment requirements (including submission of a complete and compliant Application, receipt of the Enrollment Committee’s recommendation of the Application for approval to the Executive Council, and approval of that Application by the Executive Council), and who have not relinquished or otherwise lost their Membership status as provided in Article III, Section 3 of the Constitution.

B. As provided in Article III, Section 2 of the Constitution, the following individuals shall be eligible for enrollment in the Tribe, provided they comply with all existing requirements of the Enrollment Ordinance:

1. All persons listed as individuals whose names appear on the partial summary judgment in Upper Lake Pomo Association, et al. v. Cecil Andrus et. Al., No. C-75-0181 SW, entered May 15, 1979 (the “Base Roll”);
2. Persons who are lineal descendants of individuals listed in Article III, Section 2A of the Constitution may apply for membership regardless of whether the ancestor through whom eligibility is claimed is living or deceased, provided the ancestor is not ineligible under the terms of Article III Section 3 of the Constitution.

SECTION X - DUTY TO APPLY FOR MEMBERSHIP ENROLLMENT

Each individual, either individually or through their parents or guardian in the case of a minor shall be responsible for providing an Enrollment Application for their membership in the Habematolet Pomo of Upper Lake. A complete Enrollment Application must be submitted to the Enrollment Committee, and typically must be submitted by the actual Applicant, though it may also be submitted (or “sponsored”) by the persons set forth in Section XII.

SECTION XI - ENROLLMENT PROCEDURE AND COMPLETION OF APPLICATION

A. Process Overview. Enrollment in the Tribe shall be requested by submission of a complete Application, on template forms prepared by the Enrollment Committee and approved by the Executive Council. A blank Enrollment Application and related forms may be obtained from the Enrollment Committee or the Tribal Administration office upon request.

B. Application Forms. Each Enrollment Application shall contain a statement, signed under the penalty of perjury, affirming that: (i) the Applicant has supplied all relevant data that is intended to be submitted to the Tribe on the issue of enrollment, (ii) the information contained on the Enrollment Application form and in accompanying documents is true and correct to the best knowledge and belief of the Applicant; and (iii) the Applicant has not intentionally omitted any relevant information, as set forth on the form entitled HPUL Form E-4 Enrollment Application Verification.

1. Enrollment Applications are deemed submitted on the date they are determined to be complete, as determined by the Enrollment Committee, in its sole judgment and based upon the criteria set forth in this Ordinance. Applicants must plan ahead for any deadlines to ensure completion.
2. Incomplete Applications are not considered to have been submitted and will be returned to the applicant (or Sponsor, if applicable) if no action is taken by the applicant to correct any deficiencies within 60 calendar days of issuance of written Notice of Deficiency, which notice will be mailed by the Enrollment Committee via First Class certified mail, return receipt requested or
other method which provides for confirmation of actual delivery to Applicant or Applicant’s representative.

3. Presently, a completed Enrollment Application consists of the following items:
   i. Enrollment Package Checklist, signed by the applicant;
   ii. Enrollment Application Verification, signed by the Applicant, guardian, or sponsor, as appropriate;
   iii. All items on the application checklist, in a complete and legible format;
   iv. Signed Application;
   v. Family Tree that is completed for both maternal and paternal lines, unless there is a showing of Good Cause to exclude any portion of those maternal and paternal lines, with any tribal affiliations stated for all applicable persons, using the Family Tree – Enrollment form;
   vi. Original certified copy of the birth certificate (to be returned to applicant upon final disposition of application), listing both mother’s and father’s name absent a showing of Good Cause;
      a. In the event of a generational gap in membership an Original Certified Copy of the birth certificate will be required for each qualifying person in the lineage.
      b. In the event that a father’s name is omitted from the birth certificate, any claim regarding the father’s identity made in connection with the Application must be verified to the satisfaction of the Enrollment Committee and in a manner consistent with the standards of this Ordinance (i.e., that it is more likely than not that the person identified as the father is, in fact, the biological father of the Applicant). Examples of verification include, but are not limited to, Affidavits signed by all involved parties, and certified DNA test results from a Tribally approved DNA testing lab establishing the relationship between the father and Applicant.
   vii. Social Security Card (copy);
   viii. Certified DNA test results, from a Tribally approved DNA testing lab;

C. Filing of Enrollment Application. Enrollment Applications and supporting documents shall be filed by the Applicant with the Enrollment Committee at the Tribal Administration Office in person or by mail. The Enrollment Committee strongly encourages, but does not require, Applicants to submit Enrollment Application materials using a method that allows for verification of delivery and related details, such as FedEx, UPS, or Certified/Registered U.S. Mail. Appropriate Tribal Administration staff shall stamp all Enrollment Applications with the date on which it was received. The Applicant shall notify the Enrollment Committee in writing of any change in address or other relevant information while the application is pending. A copy of the Enrollment Application is available to the applicant/guardian upon request, the procedures for which are set forth above.

D. Voluntary Withdrawal of Pending Application. Before a final action is taken on any Application, an applicant may voluntarily withdraw his or her pending application (or that which they have sponsored), and such withdrawal shall be without prejudice to any right to file a future Application. Such a withdrawal shall be on the form entitled Notice of Voluntary Withdrawal of Application, which shall be notarized and shall be personally delivered to the Enrollment Committee or mailed via a form that allows for verification of delivery and related details, which verification and details must be provided by Applicant upon request of the Tribe.

E. Review of Enrollment Application by Enrollment Committee. As soon as practically and reasonably possible, but no later than the next occurring Enrollment Committee meeting, the Enrollment Committee shall review the papers to determine whether the Application is complete.
   1. If the Enrollment Committee determines the Application is complete, it shall date-stamp the materials at that time and process them as set forth below.
   2. If the Enrollment Committee determines the Application is incomplete, it shall timely mail a Notice of Deficiency to the applicant (or his or her legal guardian or sponsor) as set forth above and the applicant shall resolve all such deficiencies within 60 calendar days of the date of such Notice of Deficiency, absent a showing of Good Cause.
   3. Once the Enrollment Application is determined to be complete, the Enrollment Committee shall review it, substantively, as soon as reasonably possible, but in no event any more than thirty (30) calendar days following its determination that the Application is complete.

Adoption Date: 11/02/18
4. After any applicable deadlines have expired, and upon review of an Application and determination it is complete (or upon the expiration of applicable deadlines and the Applicant's failure to sufficiently address any Notice of Deficiency), the Enrollment Committee shall recommend approval or denial of the Application to the Executive Council, and it shall do so in writing within 10 business days of reaching that recommendation, stating the reasons for its recommended approval or denial of the Application.

F. **Executive Council Action.** At the next Executive Council meeting following receipt of the recommendation of the Enrollment Committee, and absent Good Cause for additional delay, the Executive Council shall approve or deny the Application, or request more information of the Enrollment Committee:

1. The factual basis for the Enrollment Committee's recommendation shall not be reopened by an Applicant before the Executive Council without a showing that the Applicant has available for immediate presentation certain evidence which could not with reasonable diligence have been presented to the Enrollment Committee, or that this Ordinance has been violated.

2. At the next Enrollment Committee meeting following the Executive Council’s decision, the Enrollment Committee will make arrangements to notify the Applicant by personal service or registered mail of the Executive Council’s decision.

3. Any action to approve an Application must be taken via formal Resolution of the Executive Council.

4. The Executive Council's decision to approve or deny an Application shall be final, subject only to the appellate procedures related to Grievance Review Board as set forth in this Ordinance.

G. **Effective Date of Council Action.** Upon enactment by the Executive Council of a Resolution approving enrollment, a new Tribal Member shall be entitled to exercise Tribal rights on the effective date of that Resolution, subject only to any restrictions set forth in this Ordinance (e.g., See Section XV – Dual Enrollment and Holding Period for terms regarding the applicable holding period in the case of relinquishment of membership in another tribe).

H. **Actions to Temporarily Limit Acceptance and/or Processing of Enrollment Applications.**

1. Enrollment is open to all eligible people as outlined in Section IX – Enrollment Criteria of this Ordinance, and Article III – Membership of the Constitution of the Habematomel Pomo of Upper Lake. However, the Tribe may limit the processing of Applications for enrollment, and thus the approval or denial of such Applications, under the procedures set forth herein. Such actions are the only exceptions to full open enrollment under Section IX of this Ordinance and Article III of the Constitution. Further, such actions shall only be valid if they are implemented pursuant to either the Initiative or Referendum procedures set forth in Article XIV of the Constitution, and any related Constitutional provisions. Finally, to be valid, any restriction on accepting and/or processing enrollment applications pursuant to the terms and procedures otherwise set forth in the Constitution and this Enrollment Ordinance must specify: (1) the expiration date of any limitation(s); (2) the specific limitation(s); and (3) the basis for such limitation(s), which must be grounded in protection and advancement of the Tribe's best interests.

2. With respect to the current restrictions on processing Enrollment Applications, as adopted pursuant to a motion (Motion #5) and a vote of the General Membership on December 14, 2002 (limiting processing of applications to newborns, young adults who file within one year of turning 18, and applications submitted by December 13, 2002), it shall expire in its entirety on the one-year anniversary of the 2018 amendments to this Ordinance, as reflected in the required and related Resolution. As of that date, and unless there is a successful action in the form of either an Initiative or Referendum that complies with the above-stated terms, there shall be no restrictions of any nature on the acceptance and processing of enrollment applications that conform with the Constitution and this Ordinance.

i. To the extent any person has filed an application or other related materials seeking Membership in the Tribe during the restrictions described directly above, from December 14, 2002 through the enactment of this amended Enrollment Ordinance, and to the extent his or her Application for Membership has not been granted (i.e. their status has been, and remains, pending), he or she must comply with all terms of this amended Enrollment Ordinance, including but not limited to those set forth in Section XIV.

**SECTION XII - SPONSORING THE ENROLLMENT APPLICATION**

Adoption Date: 11/02/18
In certain instances, persons other than the potential Tribal Member may submit an Enrollment Application on behalf of the Applicant. The specifics of such a “sponsored” Enrollment Application are as follows:

<table>
<thead>
<tr>
<th>Qualifying Event</th>
<th>Eligible Sponsor(s)</th>
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<tbody>
<tr>
<td>Deceased applicant</td>
<td>Executor or Administrator of applicant’s estate.</td>
</tr>
<tr>
<td>Minor applicant</td>
<td>Biological parent or legal guardian of applicant.</td>
</tr>
<tr>
<td>Ward applicant</td>
<td>Legal guardian of applicant or person approved by the Enrollment Committee.</td>
</tr>
<tr>
<td>Foreign-stationed armed services member and family</td>
<td>Spouse, biological parent, or biological adult child of applicant, with applicant’s written approval on appropriate notarized form.</td>
</tr>
<tr>
<td>Foreign-stationed government employee and family</td>
<td>Spouse, biological parent, or biological adult child of applicant, with applicant’s written approval on appropriate notarized form.</td>
</tr>
<tr>
<td>Incarcerated applicant</td>
<td>Spouse, biological parent, or biological adult child of applicant, with applicant’s written approval on appropriate notarized form.</td>
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SECTION XIII - BURDEN OF PROOF

A. The burden of proof will be upon the individual Applicant to establish every element of their claim regarding enrollment under the Constitution of the Habematolel Pomo of Upper Lake and this Ordinance, unless otherwise stated herein. Any matter to be proven under this Ordinance must be proven to the satisfaction of the Enrollment Committee by a Preponderance of the Evidence available, including but not limited to the evidence provided in the Application, unless otherwise noted (e.g., DNA testing standards).

B. Enrollment Evidence will be defined as any relevant evidence that may assist in review of the Application, including, but not limited to: certified copies of birth certificates; statistics; historical society records; adoption agency records; results of DNA tests; military records; affidavits concerning lineage as defined under this Enrollment Ordinance; newspapers; affidavits from elders as verification of origins.

SECTION XIV – DNA TO PROVE LINEAL DESCENDANCY

To protect the Tribe by ensuring that only those persons who are eligible as set forth in the Constitution become Tribal Members, the Tribe shall use universal DNA testing as follows. Any DNA test that does not conform to these standards in any manner shall not be used to determine eligibility for Tribal Membership.

A. All Applicants for Tribal Membership:
1. A DNA test will be required to establish lineal descendancy and each Applicant’s eligibility for Tribal Membership is based on the criteria set forth in the Constitution.
2. Applicants shall pay the Tribe for all testing, as established by the Tribe, before any testing may be performed.
3. DNA test results must be submitted by the testing laboratory directly to the Enrollment Committee before an Application for Tribal Membership will be processed.
4. In the event of a generational gap in membership, a DNA test is required for each successive qualifying person from the point of an established Tribal Member or base roll absent a showing of Good Cause.

B. All Currently-Enrolled Tribal Members:

Adoption Date: 11/02/18
1. Considering inconsistent past practice and enforcement of testing standards, and to finally and definitively establish lineal descendency and each person’s eligibility for Membership in the Tribe based on the criteria set forth in the Constitution, all persons who are currently-enrolled Tribal Members as of the time of adoption of the 2018 amendments this Ordinance shall submit to DNA testing as set forth herein, regardless of age, length of Tribal Membership, or any other factor.

2. The Habematolel Pomo of Upper Lake shall pay for all DNA testing for all currently-enrolled Tribal Members.

3. Absent a showing of Good Cause, all currently-enrolled Tribal Members shall submit to such testing by the deadline provided to them, via written notice, from the Enrollment Committee.

4. If any currently-enrolled Tribal Member fails to meet the deadline for DNA testing as set by the Enrollment Committee, then, unless there is a showing of Good Cause for such a failure, they may be sanctioned as determined by the Executive Council.

C. Terms Applicable to All DNA Testing:

1. All persons requiring DNA testing under this Ordinance shall utilize the DNA testing lab(s) and collection facilities approved by the Tribe, as of the time of their actual test. Thus, to initiate DNA testing, all individuals must request testing materials and information from the Enrollment Committee or the Tribal Administrator.

2. The Enrollment Committee shall maintain a list of the currently approved lab(s) and collection facilities, and it shall include that list with the other Enrollment Application materials distributed to Applicants. The Enrollment Committee shall also maintain a separate list of all past approved DNA testing labs, as well as the date ranges of such approval.

3. All DNA testing laboratories and collection facilities approved by the Tribe shall: (i) meet ISO/IEC 17025 (the international standard set for ensuring the technical competency of laboratories, covering every aspect of laboratory management including sample preparation, analytical testing proficiency, record keeping, and reporting); and (ii) be certified by independent organizations such as the AABB (American Association of Blood Banks), ANAB (ANSI-ASQ National Accreditation Board), CAP (College of American Pathologists), state and/or federal departments of health, CLIA (Clinical Laboratory Improvement Amendments), or organizations applying equally stringent certification standards.

4. To establish a complete chain of custody, all specimens must be collected by a Tribally-approved collection facility and tested by labs utilizing protocols such that each test is an AABB accredited test that is court admissible (e.g., direct collection of specimen, use of a neutral witness, verification of identity through government-issued photo identity, fingerprints, etc.).

5. The approved labs shall determine what type of specimen is to be collected as well as the method of collection to achieve the most accurate results based on the current state of art and scientific testing capabilities, and any change in the same shall have no effect on past DNA tests or resulting actions.

6. All test results shall be sent by the approved lab(s) directly to the Enrollment Committee.

7. The method of testing by comparison, whether maternity, paternity, sibling, grandparent, avuncular, or Y-Chromosome (also called Y-STR, and only done in addition to autosomal DNA testing, not as a standalone test per AABB accreditation standards), will vary depending on factors specific to each family and beyond the control of each individual submitting to the testing, i.e., who is available within the bloodline for comparison testing. However, the test(s) that will be used in any individual scenario is the one (or more) that will yield the most definitive results based upon the highest level test possible in the specific familial context as determined by the Enrollment Committee, in consultation with the DNA lab personnel if necessary. The order of preference, from most to least preferred is maternity, paternity, sibling, grandparent, avuncular, or Y-Chromosome. For example, if an individual’s father’s DNA is available, it shall be used for comparison instead of a sibling, grandparent, aunt, uncle, or cousin’s DNA. Similarly, if an individual’s father’s DNA is not available, but a sibling’s DNA is available, it shall be used for comparison instead of a grandparent, aunt, uncle, or cousin’s DNA.

8. All DNA testing must include a minimum of 20 markers recommended by a lab that meets the criteria set forth herein for that specific type of comparison test, and yield an accuracy level of at least the following levels for each of the types of testing:

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<table>
<thead>
<tr>
<th>Type of Test</th>
<th>Probability of Relationship Level (minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maternity</td>
<td>99%</td>
</tr>
<tr>
<td>Paternity</td>
<td>99%</td>
</tr>
<tr>
<td>Sibling</td>
<td>91%</td>
</tr>
<tr>
<td>Grandparent</td>
<td>91%</td>
</tr>
<tr>
<td>Avuncular</td>
<td>Typically 91%*</td>
</tr>
<tr>
<td>Y Chromosome (Y-STR)</td>
<td>TBD*</td>
</tr>
</tbody>
</table>

*These shall be determined on a case by case basis, in consultation with the then-approved DNA testing lab, with the intent being to balance the interests of protecting the Tribe and protecting the rights of those who appear to have a legitimate claim to Membership based upon the information reasonably available and application of that information to the then-existing best practices and scientific capabilities applicable to DNA testing.

9. As part of the Enrollment Application, all DNA testing and related results are confidential and will not be disclosed to any person(s) or entity unless they have a legitimate need to know the information in connection with performing their duties as set forth in this Enrollment Ordinance or other applicable law and follow the procedures set forth herein.

**SECTION XV – DUAL ENROLLMENT & HOLDING PERIOD**

In accordance with Article III, Section 3 of the Constitution of the Habemateol Pomo of Upper Lake, an application will not be approved for an applicant who has not relinquished all rights in another band, tribe, colony, pueblo, rancheria, reservation, group or similar organization (at least conditionally, conditioned solely upon approval of the application for Tribal Membership). Further, any applicant who has previously been enrolled in another federally recognized Indian tribe, voluntarily relinquished that enrollment and is then subsequently enrolled as a Member of this Tribe will be subject to a five (5) year holding period during which they will not be eligible for Tribal benefits absent a showing of Good Cause.

**SECTION XVI – DISENROLLMENT**

A. Any person subject to disenrollment proceedings will be afforded due process in compliance with all applicable legal standards. The specific procedures shall be established by the Enrollment Committee, subject to approval by the Executive Council. However, key aspects of the required due process include: (i) a minimum of 30 calendar days’ advanced written notice, sent by registered mail to the address on file with the Tribal Administrator, identifying the action proposed to be taken as well as a statement of the basis for that proposed action; (ii) an opportunity to review the evidence related to that proposed action before any hearing regarding the proposed action; (iii) an opportunity for the Tribal Member subject to the proposed action to present evidence, including through the direct and cross examination of witnesses, in the context of a hearing before a panel convened for that purpose; (iv) written notice of any decision on the proposed action, with a statement of the basis for the same; and (v) the opportunity to appeal any decision to the Executive Council, whose decision shall be final, subject only to the processes and decisions involving the Grievance Review Board as set forth herein.

B. Grounds for disenrollment include, but are not limited to:
   1. Fraud or misrepresentation of any evidence in support of an enrollment application or data relevant to enrollment eligibility that is presented in connection with this application;
   2. The person is listed on a membership roll or final termination roll of another federally recognized tribe or band and has not relinquished membership in that other tribe;

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3. Evidence or proof submitted to the Enrollment Committee by a third party regarding membership eligibility for another person that is found to be credible and meet the evidentiary standard set forth herein;

4. DNA test results that do not satisfy the standards set forth in this Enrollment Ordinance;

5. Errors in processing any part of the Enrollment Application; or

6. Receipt of a verified request of an adult Tribal Member, or guardian of an incompetent Tribal Member, or parent or guardian of a minor Tribal Member, relinquishing Membership; provided the verification request is accompanied by satisfactory proof that the incompetent Tribal Member or minor is being relinquished to permit the enrollment of that incompetent Tribal Member or minor in another Indian Tribe.

C. Tribal Benefits and Rights Pending Disenrollment Action:

1. The Executive Council may, upon issuance of a notice by the Enrollment Committee that good cause exists to proceed with a disenrollment action (described above in Section XVI(A)(1)), immediately suspend and hold any Tribal benefits and rights otherwise available to a Member whose enrollment is challenged pending final disposition of the disenrollment action. Notwithstanding the above, the Member shall, if already there, continue to reside in Tribal housing under the terms of a lease or other rental agreement pending final disposition of the disenrollment action. In addition, the Member shall continue to receive those benefits available to the Member under Tribal health and education programs (including financial benefits under those programs) to the extent he or she was receiving such benefits at the time the disenrollment action commenced. The Executive Council shall notify the Member, Enrollment Committee, and Tribal Administrator in writing of the suspension of Tribal benefits.

2. If the Executive Council votes for disenrollment, all Tribal benefits otherwise available to a Member whose enrollment is challenged shall be suspended pending the disposition of any appeal to the Grievance Review Board of the Executive Council’s decision. Notwithstanding the above, the Member shall, if already there, continue to reside in Tribal housing under the terms of a lease or other rental agreement pending final disposition of the disenrollment action. In addition, the Member shall continue to receive those benefits available to the Member under Tribal health and education programs (including financial benefits under those programs) to the extent he or she was receiving such benefits at the time the disenrollment action commenced.

3. If the Member at issue does not appeal the Executive Council’s decision to disenroll before the applicable deadline, or if that decision is affirmed on appeal by the Grievance Review Board, all benefits held in suspension will be released to the Tribe and the disenrolled person’s eligibility for all Tribal Member benefits shall cease.

4. If the Executive Council votes against disenrollment, or if an Executive Council decision to disenroll a Member is reversed on appeal by the Grievance Review Board, any suspension of Tribal benefits will be lifted and all amounts held in suspension will be paid to the Member, without interest, with an accounting for the same.

5. A Member subject to a disenrollment action is ineligible to vote in any Tribal matter for so long as that action is pending. Further, while he or she may attend meetings otherwise open to the General Membership, a Member subject to a disenrollment action may not participate in these meetings for so long as the action is pending. If there is a final decision to disenroll, the person may not vote in any Tribal matter or attend any further Tribal meetings, except to the extent such meetings are open to the general public (i.e., non-Tribal members).

SECTION XVII - RELINQUISHMENT

In accordance with Article III, Section 3 of the Constitution of the Habematoel Pomo of Upper Lake, any adult Tribal Member who decides to relinquish his or her Tribal Membership, or that of a child or other person for whom he or she is a legal guardian, with the Tribe will notify the Enrollment Committee in writing on a notarized form approved and issued for that use, as of that time, by the Enrollment Committee. A conditional relinquishment will become effective (i.e., an actual relinquishment) after the Enrollment Committee receives satisfactory notice and evidence that the person whose enrollment with this Tribe is to be relinquished is a member of another tribe and the Executive Council approves the action, based upon recommendation of the Enrollment Committee. A non-conditional relinquishment will become effective upon approval by the Executive Council, based upon

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recommendation of the Enrollment Committee. Relinquishment from the Habemateol Pomo of Upper Lake, by an adult for themselves, will not be subject to reconsideration. Any minor having been relinquished from the Habemateol Pomo of Upper Lake by parent(s) or legal guardian may, when of legal age, request reenrollment with the Tribe, providing he/she can meet the requirements stipulated in this Ordinance. The previous action of a minor’s relinquishment will be looked upon as done entirely by the adult(s) and not the minor, and shall have no bearing on review of his or her Application for Membership.

SECTION XVIII -- APPLICATION HEARINGS, NOTICE, REMANDS, APPEALS

The Executive Council shall ultimately determine Applicant’s eligibility for Enrollment (subject only to the Grievance Review Board procedures set forth herein), and in making that determination it shall consider the Enrollment Committee’s recommendation. That recommendation shall be based upon an evaluation of the criteria set forth in this Ordinance.

A. Hearing to be Held If Enrollment Committee Intends to Recommended Denial: Before making a recommendation that an Application for Enrollment should be denied; the Enrollment Committee shall notice and hold a formal hearing concerning the Applicant’s eligibility for enrollment and its intended action.

1. The person or sponsor filing the application shall be given written notice of the hearing in accordance with the provisions within this Ordinance and on a form entitled Notice of Intent to Recommend Denial.

2. The manner of conducting such hearing or any other matters pertaining to enrollment procedures (unless otherwise stated herein) shall be as follows:

i. A date, time and location for a hearing will be set by the Enrollment Committee (location for any hearing will be at the Tribal Administration office);

ii. The Enrollment Committee shall notify the applicant of the hearing via letter to be sent Certified Return Receipt requested from the USPS or other method allowing for delivery confirmation and related details, at least 30 calendar days in advance of the hearing;

iii. The Enrollment Committee Chairperson shall conduct the hearing; and

iv. The Applicant shall provide information pertinent to the Application that may be used to clarify information or support claims regarding eligibility.

B. Executive Council’s Review of Enrollment Committee’s Recommendation for Denial: The Executive Council shall review each Application for Enrollment together with the recommendation of the Enrollment Committee and determine whether the Applicant is eligible to be enrolled as a Tribal Member.

1. The person or sponsor filing an Enrollment Application has the burden of proof of establishing to the satisfaction of the Enrollment Committee and by a Preponderance of Evidence that the Applicant meets all of the requirements for Tribal Membership.

2. The Enrollment Committee shall consider all relevant evidence regarding the Applicant’s eligibility for Enrollment.

C. Determination of Applicant’s Eligibility: The determination as to whether an Application for membership is approved or denied by the Executive Council shall be in Resolution form and signed by the Chairperson and the Secretary of the Tribe’s Executive Council regarding each Application for Enrollment filed with the Enrollment Committee.

D. Notice of Actual Determination of Applicant’s Eligibility by the Executive Council. Every person or sponsor filing an Application for Enrollment shall be served written notice of the Executive Council’s actual acceptance or denial of the Application, and such notice shall be provided to the applicant within 30 calendar days of the Executive Council’s determination of the same.

1. If the Application for Enrollment is actually denied by the Executive Council, the written notice shall state

   i. The Application was actually denied;

   ii. The specific grounds for actual denial;

   iii. The Applicant’s right to appeal an actual denial by the Executive Council to the Grievance Review Board (GRB) in accordance with the appeal procedures established by the Ordinance and/or the GRB (to the extent such procedures do not conflict with this Ordinance). The notice shall indicate the time within which such an appeal must be commenced and the procedure for commencing such appeal with the GRB.

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iv. The content and form of the written notice shall be approved by the Executive Council, on Form E-16 Notice of Actual Denial.

2. If the Executive Council actually approves the application, any notice regarding that decisions shall:
   i. Indicate that the Application was approved;
   ii. State the Tribal Resolution number and the date of its approval, which is the date of enrollment with the Tribe;
   iii. State any restriction on enrollment (e.g. any holding period associated with an adult’s relinquishment of membership in another tribe); and
   iv. The content and form of the written notice shall be approved by the Executive Council, on Form E-18 Notice of Approval.

E. Manner of Giving Notice of Determination of Applicant’s Eligibility: As stated above in subsection D of this Section XVIII, the notice required to be given under this section shall be given within 30 calendar days after the Executive Council issues its decision as to whether the application for enrollment is approved or denied. It shall be sent by certified mail with postage thereon fully prepaid, with a return receipt requested, or via other method that allows for confirmation of delivery and details related to the same, to the address provided by such person or sponsor filing the application, or at such different address as may be subsequently provided by such person to the Enrollment Committee in writing.

F. Appeals to the Grievance Review Board. A group of seven (7) Tribal Members who have reached the age of 18 years old, selected by majority vote of the General Membership will serve as representatives of a grievance review board to be in place until a Tribal Court has been established by the General Membership of the Tribe, at which time the Tribal court shall hear any such appeal.

1. Right of Appeal: Any person or sponsor filing an Application for Enrollment that has been denied, a Petition to Reopen an Application that has been denied, or a Member who has been disenrolled by the Executive Council, may appeal to the Grievance Review Board, or GRB, in the manner herein provided.

2. Commencing an Appeal:
   i. To commence an Appeal, such person or sponsor must clearly express in writing an intent to appeal such denial or disenrollment to the GRB by filing Form HPUL E-5, Notice of Appeal and all documentation supporting and/or related to the basis for any such appeal. In signing and filing this Notice of Appeal, the Appellant expressly authorizes the Enrollment Committee to: (1) copy his or her Enrollment File; and (2) provide such copy to the GRB for purposes of handling the appeal.
   ii. A copy of the Notice of Appeal and supporting/related papers must be personally served by the Appellant (or his/her designee) on the GRB, via the Tribal Administrator or his or her designee (who shall accept personal service on behalf of the GRB) during normal business hours at 9470 Main Street in Upper Lake, California or the then-existing Tribal Administration office, before the closing of business on or before the thirtieth (30th) calendar day after the Notice of Actual Denial or Notice of Disenrollment is received by the person filing the application for enrollment or disenrollment in the event of delivery of such notice within the Continental United States. If such notice is delivered to an address outside the Continental United States, then there shall be sixty (60) calendar days rather than thirty (30) calendar days from the date of receipt in which to file such an appeal.
   iii. The Appeal is deemed commenced upon the date the Notice of Appeal and supporting Appellate papers are actually served by the Appellant on the GRB, as set forth directly above.

3. Appellate Review by the GRB:
   i. Within ten (10) business days of commencement of an Appeal the Enrollment Committee shall transmit copies of all documents pertaining to the Enrollment Application or disenrollment, together with all documentary evidence presented concerning the Applicant’s eligibility to the GRB.
   ii. The burden of proof of establishing eligibility, in accordance with the standards set forth in this Ordinance, remains on the Appellant.

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iii. The Appeal should include any and all supporting evidence, including any not previously furnished, and may include a copy of or reference to any Tribal or other records having any bearing on the appellant’s eligibility.

iv. Appellant may furnish Affidavits from person(s) having personal knowledge of the facts at issue and may request additional time to submit supporting evidence.

v. An extension period of thirty (30) calendar days for such a submission of supporting evidence or Affidavits may be granted by the GRB on showing of Good Cause.

4. Hearing by the GRB:
   i. The GRB shall schedule and notice a hearing which shall, absent a showing of Good Cause for a longer period, commence within thirty (30) business days and conclude within forty-five (45) business days of commencement of an appeal.
   ii. The GRB will consider the record as presented, together with such additional information that may be considered pertinent.
   iii. It will allow oral presentations to be made and any such additional information shall be specifically identified in the decision (described below).

5. Decision by the GRB:
   i. The GRB will consider the record as presented together with such additional information that may be considered pertinent and the GRB will allow oral presentations as described in Section XVIII(F)(4)(ii) to be made. Any such additional information shall be specifically identified in the decision.
   ii. The decision of the GRB, on Appeal, shall be final and conclusive and written notice of the decision and basis for the same, on HPUL Form E-17 Notice of Appellate Decision, shall be given to the Appellant and Executive Council within 30 business days of the hearing conclusion, absent a showing of Good Cause for a longer period of time. For the sake of clarity, any decision by the GRB as to any denial of an Application for Enrollment, petition to reopen an Application, or a disenrollment action is final, even if it conflicts with the Executive Council’s decision at issue, subject only to the terms set forth below in Section XIX – Reopening the Application.
   iii. Upon issuance of the GRB’s decision on any Appeal, and in order to protect both the Appellant’s privacy and the integrity of the Tribe’s Enrollment Files and other sensitive materials, the GRB shall: (1) make an electronic copy of all materials it received in connection with each Appeal as well as the final written decision; (2) identify this electronic copy as the official GRB Appeal file, in a manner that includes the decision date and Appellant name; (3) store the electronic copy of these materials in a secure manner accessible only by members of the GRB and its designee(s) (e.g., its legal counsel and administrative personnel); and (4) destroy all hard and other electronic copies of materials that are not part of the official GRB Appeal file as soon as practically possible following creation of the official GRB Appeal file.

6. GRB Meetings and Order of Business
   i. In order for the GRB to conduct business or take action pursuant to this Ordinance:
      1. The GRB must provide written notice, which notice must: (1) state the date, time and location of the meeting; (2) identify the general topic(s) anticipated for discussion and decision, if any, at the meeting; (3) issue to all GRB members and any other person(s) (e.g. applicant or Member) who has a right to appear at the meeting as set forth in this Ordinance; and (4) issue in a manner that is reasonably calculated to ensure delivery to the recipients at least five (5) business days in advance of the noticed meeting date; and
      2. A quorum of the GRB must be present, which shall exist if five (5) of the GRB members are present.
      3. Matters brought to a vote within the GRB shall be approved by a simple majority (i.e., a simple majority of those present and voting at the meeting, provided there is a quorum present).
      4. Voting at all GRB meetings may be by voice or hand, but in any event there shall be a written record of any vote and that shall be stated at least in the minutes of that GRB meeting.

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ii. Until such time as the GRB may adopt its own Rules of Order, it shall utilize the current edition of Robert's Rules of Order in the conducting of all GRB business, except when they are inconsistent with the express provisions of this Ordinance or the Constitution.

iii. Any action that does not satisfy each of the above elements shall have no effect.

SECTION XIX - REOPENING THE APPLICATION

A. An applicant may petition the Executive Council, in writing to reopen a denied application on the following grounds:
   1. Newly-discovered, substantial, credible evidence that is material to the application, which the applicant could not with reasonable diligence have discovered and given to the Enrollment Committee while the application was pending; or
   2. A violation of the Constitution or this Ordinance occurred in the processing of the application; or

B. Any such petition to reopen the application must be submitted to the Executive Council within 30 business days of petitioner's discovery of the fact(s) supporting the petition. The decision of the Executive Council regarding whether or not the petition to reopen will be granted is final, subject only to appeal to the GRB pursuant to the terms specified above in Section XVIII. Any decision by the GRB as to any denial of an Petition to Reopen an Application is final, even if it conflicts with the Executive Council's decision at issue.

SECTION XX - REGISTRATION OF DEATHS

The Enrollment Committee will maintain an official register of deaths of members of the Tribe. The Enrollment Committee will change the status of any deceased member in the Tribal Membership Roll from "Enrolled" to "Deceased" and record the date of death. Upon receipt of a death certificate the Enrollment Committee will confirm such death details in the Tribal Roll Database. The Enrollment Committee will be responsible for securing a death certificate for the Tribal Roll Database when a death is reported.

SECTION XXI - ENROLLMENT FORMS

The Habematoilel Pomo of Upper Lake will use the following census forms to be used where applicable concerning census matters. The Enrollment Committee must maintain sufficient copies of each form and instruct members on the proper form to use. The forms may be revised by resolution of the Executive Council, provided that the revision date must be shown on the face of the revised, adopted form.

<table>
<thead>
<tr>
<th>Form</th>
<th>Title</th>
</tr>
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<tbody>
<tr>
<td>HPUL E-1</td>
<td>Application for Membership</td>
</tr>
<tr>
<td>HPUL E-2</td>
<td>Official Membership Form</td>
</tr>
<tr>
<td>HPUL E-3</td>
<td>Family Tree – Enrollment</td>
</tr>
<tr>
<td>HPUL E-4</td>
<td>Enrollment Application Verification</td>
</tr>
<tr>
<td>HPUL E-5</td>
<td>Notice of Appeal</td>
</tr>
<tr>
<td>HPUL E-6</td>
<td>Enrollment Package Checklist</td>
</tr>
<tr>
<td>HPUL E-7</td>
<td>Authorization Statement</td>
</tr>
<tr>
<td>HPUL E-8</td>
<td>Request for Information – Enrollment</td>
</tr>
<tr>
<td>HPUL E-9</td>
<td>Supplemental Information Form – Enrollment</td>
</tr>
<tr>
<td>HPUL E-10</td>
<td>Response to Request for Information – Enrollment</td>
</tr>
<tr>
<td>HPUL E-11</td>
<td>Notice of Deficiency</td>
</tr>
<tr>
<td>HPUL E-12</td>
<td>Notice of Voluntary Withdrawal of Application</td>
</tr>
<tr>
<td>HPUL E-13</td>
<td>Notice of Disenrollment</td>
</tr>
<tr>
<td>HPUL E-14</td>
<td>Notice of Updated Tribal Roll &amp; Database Information</td>
</tr>
<tr>
<td>HPUL E-15</td>
<td>Notice of Intent to Recommend Denial</td>
</tr>
<tr>
<td>HPUL E-16</td>
<td>Notice of Actual Denial</td>
</tr>
<tr>
<td>HPUL E-17</td>
<td>Notice of Appellate Decision</td>
</tr>
<tr>
<td>HPUL E-18</td>
<td>Notice of Approval</td>
</tr>
</tbody>
</table>

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SECTION XXII – AMENDMENTS
This Habematoilel Pomo of Upper Lake Enrollment Ordinance may be amended by the Habematoilel Executive Council, upon recommendation of the Enrollment Committee or General Membership. Action must be taken by Resolution of the Habematoilel Pomo Executive Council.

SECTION XXIII – DEFINITIONS
As used herein, the following terms shall have the following meanings unless otherwise specified, even if they are not capitalized.

**Affidavit:** A written statement of fact signed by a person who swears it is true under the penalty of perjury.
**Appeal:** A complaint to a higher court or administrative level that a lower court or administrative body made an error or caused an injustice to be done.
**Appellant:** A person who asks that a decision of one body be reviewed by a body with authority to change the decision. In the context of this Enrollment Ordinance, this will typically involve an applicant requesting that the Grievance Review Board review the decision of the Executive Council regarding a Notice of Denial or Notice of Disenrollment.
**Appellant Review:** The re-examination by a higher court or administrative level of a decision made by a lower body to make sure the lower body made the correct decision. See Appeal.
**Application:** An application, whether complete or incomplete, for membership in this Tribe.
**Applicant:** A person who seeks to be enrolled in the Tribe as a member and whose name is on the Application.
**Burden of Proof:** The duty to positively prove a fact (or set of facts) in dispute, by a Preponderance of Evidence deemed admissible by the reviewing body for the purposes of this Ordinance, unless otherwise stated herein.
**Certify:** The act of endorsing or confirming the statement, recommendation, document, or act. Certifications will be represented by signature(s) of the Enrollment Committee or Executive Council, as appropriate.
**Collateral Relatives:** Descendants from the same ancestor, but not from one another (namely, aunts, uncles, brothers, sisters, cousins, etc.) Common Law
**Constitution:** The Constitution of the Habematoilel Pomo of Upper Lake.
**Descendant:** When used in enrollment, this term refers to lineal descendants. Lineal descendants are the children of parents, who are children of parents that go back to the Base Roll, as proven by DNA and other acceptable evidence. A person is considered a descendant of a Tribal Member even if a generation between was not enrolled.
**Disenrollment:** An affirmative action by the Tribe to remove a Member of the right to Tribal membership.
**DNA Test(ing):** DNA is short for deoxyribonucleic acid testing. DNA testing analyzes the genetic material of two or more individuals to show the probability that they are genetically related.
**Documentation:** The supplying of evidence to support a statement of fact. No enrollment action should be taken without documentation to support the decision.
**Dual Enrollment:** Membership in more than one tribe, band colony, pueblo, rancheria, reservation, group or organization.
**Due Process:** A course of proceedings according to the rules and principles established for the protection of individual rights. The fundamental requirements of due process are notice and an opportunity to be heard. When a government (tribe or tribal organization) makes decisions affecting the life, liberty or property of an individual, the government must provide an opportunity to the individual to defend those rights, and, in reaching a decision, the government must not act unreasonably.
**Enrollment Application:** Application for enrollment with the Habematoilel Pomo of Upper Lake
**Enrollment File:** The file (electronic and physical) containing an Applicant’s enrollment materials, including but not limited to Application and other supporting materials.

*Adoption Date: 11/02/18*
Enrollment Committee: An official group of five (5) members appointed by the Executive Council to regularly review enrollment applications and recommend (and sometimes deciding) whether they should be approved or denied.

Family Tree: The relationships or lines of decent through parental lines. A family tree chart is used to trace and demonstrate ancestry.

Federally Recognized Tribe: Indian tribes recognized by the Federal Government as eligible for Federal services, as established by inclusion in the current list published in the Federal Register, entitled "Indian Tribal Entities Within the Contiguous 48 States Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs.

General Membership: The group of adult persons who are Tribal Members and eligible to vote on Tribal matters.

Good Cause: The term denoting adequate or substantial grounds or reason to take a certain action, or to fail to take an action prescribed by law, including this Ordinance. What constitutes a good cause is determined on a case by case basis, by the body required to make the determination at issue.

Grievance Review Board: A group of seven (7) Tribal Members who have reached the age of 18 years will be selected by majority vote of the General Membership to serve hearing panel members until a Tribal Court is established by the General Membership.

Guardian: One who has the legal right and duty, as determined by a court or body of competent jurisdiction, to care for a person or property of another.

Lineal Descendant: A person who is in direct line to an ancestor who is a Tribal Member (or was a Tribal Member at the time of death), such as a child, grandchild, great-grandchild, etc. A Lineal Descendant is distinguished from a "collateral descendant," which would be from the line of a brother, sister, aunt or uncle.

Tribal Roll Database: The secure database containing the enrollment and membership information for all Tribal Members, as required under this Enrollment Ordinance, as set forth in Section VII.

Notarize: To have a document attested before or authenticated by a public officer (a notary) who witnesses the signature and certifies that it is authentic (i.e., that the person signing the document is who they claim to be).

Ordinance: This Tribe’s Enrollment Ordinance.

Petition: A formal written request addressed to a court or public official.

Preponderance of Evidence: Evidence, as deemed admissible by the reviewing body, that shows the fact at issue is more than 50% likely (i.e., more than 50% of the admissible evidence shows the fact is likely true). A superiority in weight or quantity. More or better evidence or simply the "most good evidence" establishes something.

Relinquishment of Membership: Personal action by a tribal member to sever his tribal relationship, either with this Tribe or another tribe. Relinquishment can be absolute or conditional on acceptance as a member of another tribe. It must be in writing and is effective on receipt by the Enrollment Committee. The tribe cannot refuse relinquishment unless enrollee is legally incompetent.

Resolution: A formal statement by a governing body of a decision to do, or not do, something.

Sponsor: The person who has the authority to do something for someone who, because of age, absence, or incompetence, cannot do it for himself.

Tribal Court: See Grievance Review Board

Tribal Member: An individual who meets the membership requirements specified by the Tribe in its constitution and this Enrollment Ordinance, and is accordingly enrolled in this Tribe.

Tribe: The Habematelel Pomo of Upper Lake.

SECTION XXIV - EFFECTIVE DATE

This Ordinance is effective as of the date it was adopted by the Tribal Membership of the Habematelel Pomo of Upper Lake in 2000. Any amendments to this Ordinance are effective as of the date the Executive Council takes formal action, via Resolution that attaches the amended Ordinance as an exhibit, to adopt them.

Adoption Date: 11/02/18
CERTIFICATION

We the undersigned Officers of the Habematolel Pomo of Upper Lake (the “Tribe”), being the Chairperson and Secretary of the Executive Council (EC) of the Tribe, do hereby certify that the Executive Council is composed of seven (7) Council Members, of which 7 were present, constituting a quorum, at a monthly meeting thereof, duly called, noticed and conducted on this day of November 2, 2018 and that this Resolution was adopted by an affirmative vote of 5 YEAS, 1 NAY, and 1 ABSTENTION. We further certify that since its amended adoption the Resolution and/or Enrollment Ordinance has not been rescinded, amended, or modified in any way.

DATED SIGNED: November 16, 2018

ATTEST:

SHERRY TREPPA,
Executive Council (EC) Chairperson

IRIS PICTON,
Executive Council (EC) Secretary
Habematolel
Pomo of Upper Lake

Election Ordinance

Ordinance Effective Date: March 13, 2004
Revised Date:
# HABEMATOLEL POMO OF UPPER LAKE

# ELECTION ORDINANCE

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ELECTION ORDINANCE

ARTICLE I – PURPOSE

The purpose of this ordinance is to provide an ordinance for all elections as required by Article VI, Nomination and Elections of the Constitution of the Habematoel Pomo of Upper Lake.

ARTICLE II – AUTHORITY

This Election Ordinance is authorized by the Constitution of the HABEMATOEL Pomo of Upper Lake upon approval by the Secretary of the Interior in accordance with the terms of the Indian Reorganization Act (48 Stat. 984) as amended.

ARTICLE III – VOTER REGISTRATION

Section 1 – Registration

Eligible voters shall be those tribal members who are duly registered, regardless of residence, to vote pursuant to ARTICLE III, Section 2 of this Ordinance.

Section 2 – Eligibility to vote

A. Be an enrolled member of the Habematoel Pomo of Upper Lake
B. Be at least eighteen (18) years of age on the date of the election
C. Be duly and properly registered to vote as per CFR 25 Ch. 1 (04-01-03) Edition §81.6
D. Absentee voting shall be permitted only for duly registered members of the Habematoel Pomo of Upper Lake.
E. It is the responsibility of all members to keep the Tribal office informed of their current address.

ARTICLE IV – ELECTED OFFICES/QUALIFICATIONS FOR OFFICE

Section 1 – Executive Council - Governing Body

In accordance with Article IV – Governing Body of the Constitution of Habematoel Pomo of Upper Lake, the Governing Body shall be known as the Executive Council and shall consist of seven (7) members elected at large from the eligible and duly registered voters of the Tribe.

A. The Executive Council shall consist of a Chairperson, Vice-Chairperson, Secretary, Treasurer and three (3) Members-at-Large, each elected by a majority vote of the voters participating in any such election provided at least 51% of those eligible and registered to vote have voted.

Tribal Election Ordinance
Effective: 3/13/04
B. The Chairperson, Vice-Chairperson, Treasurer and Secretary shall be known as the Administrative Officers of the Executive Council.

C. Except for the first election as provided for in Article VI, Section 5.B. of the Tribal Constitution, all members of the Executive Council shall be elected for four-year terms.

Section 2 – Qualifications of the Executive Council

The qualifications of an Executive Council member shall be as follows:

A. Candidate must be an enrolled member of the Tribe.

B. Candidate must have Tribal governing experience, including a minimum of 12 months experience and/or observation at Tribal Council meetings. Experience may include committee membership, an internship, and employment by the tribe and/or employment by a Tribal program.

C. Candidate must be twenty-five (25) years of age.

D. Candidate must reside physically in the State of California for a least 1 year immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.

E. Candidate must not have been convicted of a felony crime for at least 5 years immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.

F. Candidate must not have been incarcerated at any time during the three (3) years immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the prospective appointee’s appointment to office.

G. Candidate must not be currently on probation or parole.

H. Candidate must submit to drug testing immediately prior to either (a) the election in which the candidate seeks nomination and election to office, or (b) the candidate’s appointment to office.

I. Candidate cannot serve on the Executive Council if related to more than one other Executive Council member of the same household in the following manner: mother, father, sister, brother, wife, husband, daughter or son.

J. Candidate must read and sign “Tribal Council Ethics Ordinance”.

Section 3 – Election Ordinance Committee

The Executive Council shall nominate and elect by majority vote an authorized committee representatives to be known as the Election Ordinance Committee, which shall consist of at least four (4) members to a two (2) year term to preside over all elections during their term.

Tribal Election Ordinance
Effective: 3/13/04
A. Qualifications of Election Ordinance Committee – No person shall be appointed who:

   a. is currently holding elective office, or
   b. is planning to be a candidate for the Executive Council during his/her term of service

ARTICLE V – ELECTION ORDINANCE COMMITTEE’S AUTHORITY

The Election Ordinance Committee shall meet and appoint a Chairperson and Secretary. The Election Ordinance Committee, upon receipt of authorization to conduct an election, shall notify by regular mail all adult members of the tribe, who to its knowledge are eligible to vote pursuant to 25 CFR CH. 1 §81.6 of the need to register if they intend to vote. The Election Ordinance Committee’s authority, responsibilities and procedures are as follows:

Section 1 – Election Ordinance Committee’s Responsibilities (Secretarial Election)

In preparation for the Secretarial Election, the Secretary of the Interior’s authorized representative will conduct and control the Secretarial Election and together with the Chairperson of the Election Ordinance Committee appoints at least three (3) representatives of the Election Ordinance Committee to assist with the Secretarial Election. This group will be known as the Election Board. The Authorizing Officer in charge of the Election Board shall be the Secretary of the Interior’s official representative having authority to authorize the calling of a Secretarial Election. The following duties will be performed by the Election Board under the direction of the Authorizing Officer of BIA who will take responsibility for the following:

A. Upon receipt of authorization to conduct an election, notification shall be sent to all adult members of the Tribe, who to its knowledge are eligible to vote pursuant to 25 CFR CH. 1 §81.6 of the need to register if they intend to vote;
B. The voting member’s signature on the registration form shall be known as the Signature Verification Form;
C. The Authorizing Officer will request from the Election Ordinance Committee an official list of eligible members eighteen (18) years and up;
D. To see that the name of each person offering to vote is on the Tribe’s official list of registered voters;
E. To keep the ballot boxes locked at all times except when ballots are being Counted;
F. To see that ballots are cast only by registered voters and that the voting list is checked to indicate this;
G. To begin to count the regularly cast ballots immediately after the close of the polls and then the absentee ballots, pursuant to 25 CFR CH. 1 §81.21;

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Effective: 3/13/04
H. To post and certify the election returns;
I. To return the following to the officer in charge:
   i. The ballots (in marked and locked boxes)
   ii. All unused ballots; and
   iii. The completed Certificate of Results of Election. The officer in charge shall retain the ballots and other material among official records for at least one year. At the end of one year, the officer in charge shall forward the contents of the boxes and other related material to the appropriate Federal Records Center.

Section 2 – Election Board’s Responsibilities (Tribal Election)

Once the Secretarial Election is over with, all future elections will be Tribal Elections. At this point, the Election Ordinance Committee will be known as the Election Board.

The Election Board will determine the date and notify the membership when, where and time the meeting for Nominations for the Executive Council will occur.

The Election Board will perform the same basic duties, as that of the Secretarial Election except the Chairperson of the former Election Ordinance Committee will be in charge of the Election Board. The Chairperson of the Election Board will request from the Enrollment Committee an official list of eligible tribal members for each Tribal Election. In addition to the above duties, the Election Board shall be responsible for the following tasks:

A. Posting notices of the time and place of nominations;
B. Presiding over nominations for Executive Council elections;
C. Verify that candidates meet the qualifications for candidacy under Article IV, Section 2 of the Constitution of Habematoe! Pomo of Upper Lake and of this Ordinance;
D. Publish Election dates and prepare all Election documents;
E. Verifying signatures on ballots against Signature Verification Forms;
F. Counting the votes cast on both ballots and absentee ballots for Candidates and supervises any election recounts that may be necessary;
G. Posting of election results and certifying election results;
H. Reporting election results to the Executive Council and General Membership;
I. Maintain the original Signature Verification Forms and all Election records in a safe and secure place;
J. Preserving and maintaining all ballots in a sealed container under lock and key for thirty (30) calendar days from the date of the Election;

Tribal Election Ordinance
Effective: 3/13/04
ARTICLE VI – NOMINATIONS

Section 1– Nominations for Executive Council

The Election Board will call for a Nominations meeting to occur at a special meeting called for that purpose. All nominees shall either accept or decline a nomination. All nominees must be present and shall give an oral presentation as to their desire, ability and qualifications regarding the position for which they have been nominated.

Section 2– Executive Council Requirements

Any enrolled member of the Tribe shall be eligible to be a candidate for election to the Executive Council if she/he will attain the age of twenty-five (25) by Election Day, and meets the requirements and qualifications as established by Article IV Section 2 of this ordinance.

ARTICLE VII – ELECTION PROCEDURES

Section 1 – Voter Eligibility

Any enrolled member of the Tribe who will be eighteen (18) by or on the Election Day shall be eligible to vote pursuant to ARTICLE III – Voter Registration of this ordinance. Following are important procedures that are applicable to all elections.

A. The date, time and location for elections shall be posted in the Tribal Office and members shall be notified at least thirty-days prior to an election meeting.
B. The Election Board shall verify the eligibility of the nominees and conduct all elections according to ARTICLE V Section 2 of this ordinance.
D. All eligible voters must be properly registered and have a completed Signature Verification Form on file.
E. All elections shall be done by secret ballot; there shall be no voting by proxy.
F. Absentee voting shall be permitted only for duly registered members that cannot appear and vote in person.
G. All absentee ballots must be returned and received by the Tribal Office by 5:00 p.m. the day before Election Day. No absentee ballot will be counted if received after 5:00 p.m. the day before Election Day.
H. Any voter who changes his or her name shall submit a new Signature Verification Form to the Election Committee.

Section 2 – Quorum

The quorum requirements for an election shall be a majority vote of the voters participating in any such election provided at least 51% of those eligible to vote have voted.
Section 3 – Election of the first Executive Council

The Election Board may issue rules and regulations as may be necessary and consistent with this Ordinance to properly conduct elections.

A. A Nomination’s meeting for the Executive Council shall occur at a special meeting called by the Election Committee for that purpose. All nominees shall either accept or decline a nomination. All nominees must be present and shall speak as to their desire, ability or qualification regarding the position for which they have been nominated.

B. The first election of the Executive Council members shall be held thirty (30) days after the effective date of the Constitution. Election shall be every two years thereafter.

C. The official polling place for the first Executive Council shall be held at room #4 of the Tribal Office in Upper Lake, California, unless it is predetermined that a larger area is necessary. In either case, the Election Board will notify members at least 30 calendar days in advance of the date and location.

D. At the first election, the Chairperson, Secretary and two (2) Members-at-Large shall be elected to four (4) year terms. The Vice-Chairperson, Treasurer, and one (1) Member-at-Large shall be elected for two (2) year terms. Of the candidates for the three offices of Members-at-Large, the two candidates receiving the highest and second highest number of votes, respectively, shall be elected to the two offices of Members-at-Large having the four-year term. The candidate receiving the third highest number of votes shall be elected to the office of Member-at-Large, having the two-year term. Thereafter, all terms of office shall be for four-year term on a staggered basis.

Section 4– Tribal Elections

A. All other elections shall be held in accordance with the Election Board’s responsibilities for Election Procedures. Refer to Article V Section 2 – Tribal Election of this Ordinance.

Section 5– Election Board

A. The Executive Council shall appoint an Election Board of no less than (4) persons to a two (2) year term to preside over all elections during their term as per Article IV Section 3 of this ordinance. Their authority, responsibilities, procedures and appeals is prescribed in this Election Ordinance enacted by the General Membership. Should a vacancy occur and a Replacement be appointed, the appointment will be for the remainder of the term.

Section 6– Election Notification

A. All elections shall be announced in writing at least 30 calendar days before the election pursuant to the election ordinance. Ballot voting is required for all elections to be valid.

Tribal Election Ordinance
Effective: 3/13/04
ARTICLE VIII – POLLING PLACES/VOTING LIST

Section 1 – Polling Place

A. The official polling place for elections will be held at the Tribal Office, Room #4 at Upper Lake, California. If the location of the polling place is changed, members will always be notified. The General Membership meetings, whether quarterly or special called for meetings of the Tribe, shall be at a location called for that purpose. Members will always be notified of date, time and location, at least 30 (thirty) calendar days in advance.

B. Poll hours on the date of the called election: 10:00 a.m. to 2:00 p.m. unless otherwise noted. The Election Board can change these hours at any time as long as the eligible members are informed in the election notice.

Section 2 – Registered Voter List

A. The Election Board shall compile in alphabetical order an official list of registered voters. This list shall also designate those who have requested an absentee ballot and the members of the tribe who are or will have attained the age of 18 years on Election Day.

ARTICLE IX– ELIGIBILITY DISPUTES

Section 1 – Registration List

A. The Election Board shall determine the eligibility of any written claim to vote presented to it by one whose name does not appear on the official list of registered voters as well as any written challenge of whose name is on the list. Its decision shall be final. It shall rule on all claims no later than ten days before the election. Any claim not presented at least ten days before the election shall be disallowed. Omission of names from the voters list due to late registration, if notification has been timely mailed, shall not be considered grounds for a challenge.

ARTICLE X– ELECTION NOTICES/VOTING

Section 1 – Secretarial Election

Once the Secretary of the Interior gives authorization to call for a Secretarial Election, the Tribe has ninety (90) days to have the Secretarial Election in accordance with 25CFR 81.5(f). If the Tribe adopts the Constitution, the Constitution will not be effective until the Secretary’s authorized representative (Pacific Regional Office) approves it.

Tribal Election Ordinance
Effective: 3/13/04
Section 2 - Tribal Election

Once the Secretarial Election is held, all future elections will be Tribal Elections.

Section 3 – Absentee Voting

A registered and eligible member is not able to appear in person at the polls to vote, may request from the Election Board an absentee ballot. The Election Board shall give or mail the absentee ballot to the registered voter who may be entitled to receive them. Appropriate records shall be kept of those from whom requests are received. In order to be properly counted, the absentee ballots must be received back at the Tribal Office no later than 5:00 p.m. the day prior to the Election. After all other ballots have been counted; the absentee ballots shall be counted immediately and included in the results of the election.

Section 4 – Ballots

Ballots are to be prepared clearly and simply so that it is easy for the voters to indicate a choice. Should any voter spoil or mutilate a ballot in the course of voting at a poll, the voter shall destroy it in the presence of the election officials and the election officials shall then make note of the destroyed ballot and furnish the voter with another ballot.

Any spoiled or mutilated absentee ballot may be exchanged for a new one by returning it to the election official with a request for another. The election official shall honor the request promptly and make note of the dates. No extension of time will be granted.

Section 5 – Counting of Ballots

All duly cast ballots are to be counted, including ballots that are spoiled and the intent is unclear, for purposes of determining whether the required percentage of voters have cast their ballots in the election. Invalid ballots shall not be counted for purposes of determining the required percentage of votes cast.

Section 6 – Write-in votes

Write-in votes will not be allowed in any election. Any ballots containing write-in names will be disqualified and not counted as a vote.

Section 7 – Tie Votes

In the event of a tie, at the completion of the canvas of the election results, the Election Committee shall conduct a recount of the ballots cast. Should a tie still exist, the Election

Tribal Election Ordinance
Effective: 3/13/04
Board will conduct a special “run off” election limited to the tied candidates. The run-off election will be held not more than 30 calendar days (thirty) from the date of the election in which the tie vote occurred. The election will be conducted in accordance with the election process. Refer to Article VII – Election Procedures of this ordinance.

**ARTICLE XI – ELECTION RESULTS**

**Section 1 – Candidates Elected**

The candidate receiving the highest number of votes for his/her position shall be declared elected. For the length of terms for the Council’s three Members-at-Large, refer to ARTICLE VII – Section 3-C of this Ordinance.

**Section 2 – Posting and Certifying Election Results**

The Election Board shall within two weeks following the election, prepare, post and certify the results of the Election. The results shall be posted at the Central Agency of BIA when necessary, Tribal Office and at other appropriate public places determined by the Election Board. The Committee shall certify the results of the election on the Certificate of Results of Election form and transmit them to the BIA.

**Section 3 – Contesting of Election Results**

Any eligible voter may contest the results of an election. To contest an election, the voter must challenge the election results by filing with the officer in charge of the Secretary of the Interior within three (3) days after the election. The grounds for the challenge must be supported with substantiating evidence. If in the opinion of the Secretary of the Interior, the objections are valid and warrant a recount or new election, the Secretary of the Interior shall order a recount or a new election. The results of the recount or new election shall be final.

**Section 4 – Secure Location for Election Materials (Tribal Elections)**

The Chairperson of the Election Board shall be responsible to ensure that all election materials are kept in a secure and locked location within the Tribal Office for at least 90 days (ninety) after each election in the event of a protest or order of recount.

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Tribal Election Ordinance
Effective: 3/13/04
ARTICLE XII – INSTALLATION

Section 1 – Notification and Installation

A. Elected candidates shall be immediately notified that they will be installed at the Executive Council Business Meeting following the certification of the election results. The candidates will be notified of the time, date and location of the installation. Installation of any candidate for a particular position may be postponed if a dispute occurs over the election for that position.

Section 2 – Oath of Office – Administered by the Election Board Chairperson

A. The Oath of Office of each elected member of the Executive Council is to be administered by the Chairperson of the Election Committee.

C. Each elected official shall take the following Oath of Office prior to assuming his/her duties, which is effective immediately. The Oath of Office shall be as follows: “I, __ (your name) __________, do solemnly swear that I will carry out faithfully and impartially the duties of my office, that I will do the best of my ability to achieve and maintain a respect for the traditions of our Pomo culture, and for the people that I represent and that I will uphold, promote, and protect this Constitution of Habematolel Pomo of Upper Lake”.

ARTICLE XIII – VACANCIES, RECALL, REMOVAL, APPEAL AND FORFEITURE

This Article shall be effective and apply to all elected Tribal Officials. Until such time as a full working Tribal Court system is established, the Executive Council may sit as a Tribal Court, or appoint from the voting General Membership a Tribal Court and/or a Tribal Court of Appeals consistent with ARTICLE XII of our Constitution.

Section 1 – Vacancies

A. Any Executive Council seat that has been vacated, whether it is by removal, recall, or forfeiture, shall be filled by appointment at the same Executive Council meeting. The appointee shall only be seated until the next quarterly meeting in which an election to fill the seat is conducted by the General Membership. The election shall be for the unexpired term of office. No more than two Executive Council members shall be removed or recalled at the same time. No more than one Executive Council member shall be removed or recalled if a seat has been forfeited, and the vacancy has not been filled.

Tribal Election Ordinance
Effective: 3/13/04
B. An official is not eligible for nomination or seating in a capacity of the Tribe for a period of two (2) years when found guilty of the following:
1. convicted of a felony or crime
2. misconduct by the Executive Council or Tribal Courts
3. is recalled
4. fails a drug test

Section 2 – Recall
A. A recall of an elected official is evident when the Election Board and Secretary of the Executive Council receive a petition signed by at least 51% of the eligible voters of the General Membership. The Election Board shall call and conduct within thirty (30) days an election to consider the recall of any Tribal Official.
B. The election shall be conducted pursuant to the election Articles of this Constitution and the Election Ordinance.

Section 3 – Removal
A. Any member of the Executive Council or other official of the Tribe who, during the term for which he/she is elected or appointed, is convicted of a felony in any Tribal, Federal or State Court shall automatically be removed from office effective on the date of his/her initial conviction in court.
B. Any Tribal official formally accused of behavior involving misconduct reflecting on the dignity and integrity of the Tribal government, malfeasance in office or gross neglect of duty shall be suspended by the Executive Council, until such time that a hearing is conducted by the Tribal Court (Chief Judge and three (3) Associate Judges) or the highest ranking official of the Executive Council if no court has been established or appointed, of such charges shall be removed by the Executive Council.
C. Before any decision for removal, such member or official shall be given a written statement of the charges against him/her within 24 hours after suspension. A hearing shall be set before the Tribal Court within ten days after said suspension. He/she is to appear in person, and he/she shall be given an opportunity to answer any and all charges at the designated hearing.
D. Should the person choose not to appear, the Tribal Court shall request by motion for removal by default. This decision shall be final; no further remedy shall be available.
Section 4 – Appeal

A. Any Tribal Official removed by operation of Section 1, A., B., or C of this Article shall have the right of appeal. Appeals must be filed with the Secretary of the Executive Council or the established Tribal Court of Appeals within three (3) working days after a decision. A decision shall be made within 30 days after date of receipt of filing. If the Executive Council sat as the Tribal Court in the removal action under appeal, the Executive Council shall appoint a Tribal Court of Appeals from the voting General Membership, consistent with Article XII.

B. Upon receipt of a petition signed by at least 51% of the eligible voters of the General Membership, the Election Board shall call a meeting within thirty (30) calendar days to vote on the appeal of the Tribal Official.

C. The election shall be conducted pursuant to the election Articles of our Constitution and the Election Ordinance. The decision of the General Membership is final.

Section 5 – Forfeiture

A. After due notice, it shall be the duty of the Executive Council to immediately declare vacant any position and to promptly fill such vacancy in the manner provided in Article VI of our Constitution when it is determined that the incumbent:

1. has resigned
2. has been convicted of a crime involving dishonesty while in office
3. has been convicted of a felony while in office
4. has falsified or omitted information concerning any qualification or conviction of a felony or any crime involving dishonesty when elected for office.
5. has been absent for two (2) consecutive meetings without being excused by the applicable body, in which case, he/she shall forfeit that position at the third meeting; this loss of office shall not deny a person from becoming a candidate for office in subsequent elections, or
6. has ceased to reside physically in the State of California
ARTICLE XIV – INITIATIVE AND REFERENDUM

Section 1 – Initiative

The General Membership may enact laws through the initiative process. Upon presentation to the Election Committee of a petition of at least thirty percent (30%) of the eligible voters of the General Membership, any initiative shall be submitted to that body for a vote. The Election Board shall, upon receipt of such petition, forward a copy to the Executive Council. The Election Board shall meet and set a time, place and date for the initiative election in accordance with the Election Board’s procedures. At least fifty-one percent (51%) of the qualified voters must vote in such an initiative election, and a two-thirds (2/3) majority of those voting shall be required for the initiative to become law. The Executive Council shall adopt an ordinance setting out the procedures governing the initiative process.

Section 2 – Referendum

The Executive Council may propose legislation to the General Membership for adoption by referendum. The Executive Council Secretary shall submit any issue proposed for a referendum vote by the General Membership to the Election Committee. The Election Committee shall meet and set a time, place and date for the referendum election in accordance with Election Committee procedures. A two-thirds (2/3) majority of those voting shall be required for the referendum to become law. The Executive Council shall adopt an ordinance setting out the procedures governing the referendum process.

ARTICLE XV – SAVINGS CLAUSE

All enactments of the Tribe adopted before the effective date of our Constitution shall continue in full force and effect to the extent that they are consistent with our Constitution. If prior enactments are not consistent with our Constitution, our Constitution governs and the prior enactments are null and void to the extent of their inconsistency with our Constitution.

ARTICLE XVI – ADOPTION/EFFECTIVE DATE

This Constitution, when adopted by a majority vote at a special election called by the Secretary of the Interior in which at least thirty percent (30%) of the eligible and registered voters of the Tribe have voted, shall be submitted to the Secretary of the Interior for approval and shall be effective from the date of the Secretary of the Interior’s approval.

Tribal Election Ordinance
Effective: 3/13/04
DEFINITIONS

The following terms as pertained to the Election Ordinance of HABEMATOLEL Pomo of Upper Lake:

Secretary: The Secretary of the Interior or his/her representative. The Secretary of the Interior reports directly to the President of the U.S. and is in charge of several governmental departments/divisions including the Bureau of Indian Affairs.

Authorized Representative or Officer in Charge: The Secretary of the Interior authorizes a representative from the Bureau of Indian Affairs giving full authority to call and conduct a Secretarial Election.

Member of Habematolel Pomo of Upper Lake: A person enrolled as a member of the tribe according to the tribe’s membership criteria.

Registered Voter: An enrolled member who has attained the age of eighteen (18) years within 150 days from the date of election is authorized and who have completed and returned a registration form to the Election Committee is a registered voter.

Executive Council: The governing body of the tribe and consists of seven (7) members elected at large by the eligible voters of the tribe.

Secretarial Election: An election held within a tribe according to regulations prescribed by the Secretary as authorized by Federal Statute (as distinguished from tribal elections which are conducted under tribal authority).

First Election: The first election of the tribe after the Secretary of the Interior approves the tribe’s Constitution, also known as the Secretarial Election. (See Secretarial Election)

Administrative Officers of the Executive Council: The Chairperson, Vice-Chairperson, Treasurer and Secretary of the Executive Council.

Candidate: An eligible member of the tribe seeking office of the tribe’s Executive Council or Tribal Court, etc.

Misdemeanor: Any minor offense for which punishment is lesser than a felony.

Felony: A crime, which is punishable with death or by imprisonment in the state prison.

Tribal Election Ordinance
Effective: 3/13/04
DEFINITIONS
(Continued – Page 2)

Election Ordinance Committee: A group of six (6) eligible members of the tribe to 1) write an Election Ordinance procedures for the Secretarial Election and Tribal Elections. Conduct and perform all required duties and responsibilities for each election during their two-year term.

Election Board: After the Secretarial Election is adopted by the Membership and approved by the Secretary of the Interior; the Election Ordinance Committee will be known and referred to as the Election Board.

Signature Verification Form: A pre-registration form that is completed by eligible members in order to vote. Eligible names are placed on the official list of registered voters.

Ballots: An official document listing all valid candidates for an election. Each ballot is handled and cast as a secret ballot by the voter. The Bureau of Indian Affairs prepares all official ballots.

Absentee ballots: An official document listing all valid candidates for an election and marked “Absentee” and is to be used when a registered voter is unable to vote in person.

Invalid ballots: An official cast ballot, discovered at the time the votes are counted, does not comply with the requirements for voting or is not an official ballot.

Spoiled ballot: An official ballot that has been marked in such a way that it is not possible to determine the intent of the voter, a ballot that has not been marked at all, or one that has been marked so as to violate the secrecy of the ballot. There are two types: 1) A ballot that is spoiled and not cast, in this case, the spoiled ballot may be exchanged for a new one. No additional time will be provided for the new ballot to be received by the Election Committee. 2) A ballot that is spoiled and cast is to be counted in tabulating the total votes cast in conjunction with determining whether the required percentage of the qualified voters has participated in the election.

Mutilated ballot: An official ballot that has been damaged to the extent that it is not possible to determine the choice the voter intended to make. There are two kinds of mutilated official ballots: 1) A ballot that is mutilated and not cast may be exchanged for a new one. No additional time will be provided for an exchanged new ballot to be received by the Election Committee. 2) A ballot that is mutilated and cast is to be counted in the same manner as a spoiled cast ballot.

Write-in votes: Write-in votes will not be allowed in any election. Any ballots containing write-in names will be disqualified and not counted as a vote.

Tribal Election Ordinance
Effective: 3/13/04
DEFINITIONS
(Continued – Page 3)

Appeal: To call upon some authority for a decision or opinion after being removed from office.

Recall: The process of removing, or right to remove, an official from office by popular vote, usually after using petitions to call for such a vote.

Forfeiture: Something that one loses, resigns or has to give up because of some crime, fault, or neglect of duty; specifically a fine or penalty.

Initiative: An origination of an idea, matter, method, etc. presented via a petition to the Election Committee for an initiative election.

Referendum: A law or ruling, proposed or already in effect, submitted for a direct vote of the members and would supersede all previous rulings.

Enactment: To make into law.

Majority: The greater part or larger number; more than half of a total.

Quorum: The minimum number of members required being present at an assembly or meeting before it can validly proceed to transact or conduct business.

Proxy: A document empowering a person to act for another, as in voting at a General Membership meeting. (Note! Proxy voting is not allowed at Election voting.)

Duty: Rightfully; at the right time; as required; sufficiently.

Misconduct: To conduct oneself improperly, to manage badly or dishonestly.

Malfeasance: Wrongdoing or misconduct especially by a public official.

Neglect of duty: Failure to carry out expected or required action through carelessness or by intention.

Tribal Election Ordinance
Effective: 3/13/04
Habematoolel
Pomo of Upper Lake

Code of Ethics
Ordinance

Ordinance Effective: June 12, 2004
Revisions:
HABEMATOLEL POMO OF UPPER LAKE

EXECUTIVE COUNCIL
CODE OF ETHICS ORDINANCE

PURPOSE.

While acting under the Habematolel Pomo of Upper Lake (The Tribe), all Executive Council Members are vested with authority to represent and act on behalf of the Tribal Membership and the Habematolel Pomo of Upper Lake Tribe. The Executive Council exercises broad legislative authority and exclusive legislative authority under the Tribal Constitution. As such, Executive Council Members have been invested with the sacred trust of the Tribal Membership. The purpose of this ordinance is to maintain and protect this solemn obligation by stating the ethical obligations of Executive Council Members, and setting forth the consequences for violating said obligations.

POLICY.

Executive Council Members shall maintain high standards of honesty, integrity, fairness and impartiality in their conduct as Executive Council Members, and shall avoid any actions in their role as Executive Council Members, which would adversely reflect on the Executive Council itself or the Habematolel Pomo of Upper Lake Tribe as a whole. Executive Council Members shall take action in the best interest of The Tribe and it’s Tribal Membership, not for their individual or collective personal interests. Executive Council Members shall carry out their duties and responsibilities in the highest ethical manner. Violation of this ordinance may constitute “neglect of duty” or “gross misconduct” as those terms are defined in Article VIII Section 1 - page 7 of the Habematolel Pomo of Upper Lake Constitution.

AUTHORITY.

This Ordinance Code is adopted pursuant to the legislative authority granted by Article X. Powers Section 2. Reserved Powers of the Habematolel Pomo of Upper Lake Constitution.
DEFINITIONS.

"Closed Session" shall be defined as a session of the Executive Council, which is not open to the general public, but instead is limited to Tribal Members, their families, Tribal employees, contractors and consultants, and other persons invited to attend by the Executive Council.

(a) "Conflict of Interest" for purposes of this ordinance shall be defined as an action taken by a Member of the Executive Council, which is in conflict with the Executive Council Member’s obligation to act in the best interest of the Tribe and its Tribal Membership. In most instances a conflict of interest arises when an Executive Council Member takes an action which promotes his/her own personal interest(s) rather than acting in the interest of the Tribe and/or its Tribal Membership as a whole. A conflict of interest does not arise when Executive Council Members disagree about a course of action or the decision to address a particular issue, when an Executive Council Member holds a sincere belief on the issue that differs from other Executive Council Members.

(b) "Executive Session" as the term appears in Article X of the Habematolel Pomo of Upper Lake Constitution shall be defined as a session of the Executive Council which is closed to all persons except: Executive Council Members, necessary staff as designated by the Executive Council, and expressed invitees. Executive Council sessions shall be commenced and adjourned by motion, duly passed and shall not be recorded, except by Note of the Executive Council. No final or official Executive Council action shall be taken in Executive Session, without ratification of all actions/motions stated on the record once Executive Session is adjourned and the standard meeting is reconvened.

(c) "Immediate Family" shall be defined as a father, mother, son, daughter, husband, wife, brother, sister, granddaughter, grandson, any other person in a similar relationship, and/or any person living in the Executive Council Member’s household.
DEFINITIONS.

(d) “Personal Interest” for purposes of this Ordinance Code shall be defined as an action taken by an Executive Council Member, which is intended to, directly or indirectly, benefit the Executive Council Member and/or his/her immediate family, rather than the Tribe or it’s Tribal Membership as a whole. An example of “personal interest,” is when an Executive Council Member acts on a matter involving a general class of the Tribal Membership if providing that the Executive Council Member’s action was intended to benefit his/herself and/or his/her immediate family, regardless if the action also benefited other Tribal members. Personal interest does not necessarily occur when the Executive Council acts on a matter or issue that results in an incidental benefit to the Executive Council Member or his/her immediate family. Personal interest may be determined by an objective review of all of the circumstances surrounding and factors relevant to an action taken by the Executive Council Member.

(e) “Special Advisor” shall be defined as any person or entity, other than the Executive Council ad hoc committee, appointed by the Executive Council to investigate an allegation of unethical conduct against an Executive Council Member. The Executive Council may contract with an outside entity of person(s) to be a Special Advisor.

(f) “Council Chairperson” shall be defined as the Chairperson of the Tribe’s Executive Council. In any matter under this Ordinance Code where the Council Chairperson is the Executive Council Member alleged to have engaged in unethical conduct, the Vice-Chairperson shall, act in the capacity of the Chairperson under this Ordinance Code. If both the Chairperson and Vice-Chairperson are accused of such conduct, the Secretary/Treasurer shall act in the capacity of the Chairperson under this Ordinance Code or the remaining Executive Council Members at Large shall approve one of their Members to act in the capacity of the Chairperson for purposes of this Ordinance Code.
ETHICAL OBLIGATIONS.

(a) An Executive Council Member shall comply with all current laws, directives, rules, policies and procedures in effect, and including those which may be hereafter issued, providing that they apply to said Executive Council Member in his/her status as a Tribal Member or as a Member of the Executive Council.

(b) An Executive Council Member shall not act as a representative of the Executive Council or make statements to the media without express authorization of the Executive Council as a whole or the Council Chairperson. The Council Chairperson is the official representative of the Tribe and the Executive Council, unless that authority is otherwise delegated. This provision shall not prohibit an Executive Council Member from: making public statements in the course of their official duties; explaining procedures of the Executive Council for public information; defending him/herself from a criminal charge or civil claim; testifying as a witness in a legal proceeding; or from responding to allegations concerning conduct made pursuant to this Ordinance Code.

(c) An Executive Council Member shall not take any official action, whether in an Executive Council meeting, committee meeting, or otherwise, in which the Executive Council Member has a personal interest, which is or could possibly be affected by said action. When a conflict of interest exists for an Executive Council Member with regard to a particular issue, the Member shall abstain from participating in any discussion or action with regard to such matter(s).

(d) An Executive Council Member shall attend all regular and special Executive Council meetings, all Tribal Membership meetings, and all scheduled Executive Council work sessions. A Member shall notify the Council Chairperson prior to any meeting that they will be unable to attend, due to a valid excuse. Two (2) unexcused absences during a Member's term shall constitute a violation of this Ordinance Code.

(e) An Executive Council Member, who is convicted of any felony involving moral turpitude, while a Member, shall be guilty of violating this Ordinance Code.
ETHICAL OBLIGATIONS.

(e) A plea of no contest, a plea to a lesser charge or a conviction of a lesser charge may constitute a conviction for purposes of this subsection. Providing if the facts supporting the said plea or conviction would be sufficient, in a civil context, to support a judgment against the said Executive Council Member with regard to the original felony charge.

(f) An Executive Council Member shall not disclose of any materials presented, or considered, or discussed in Executive or Closed session, to any persons outside of the Executive/Closed Session, except by consensus of the full Executive Council.

(g) An Executive Council Member shall not accept on his/her own behalf individual gifts valued at over $100.00. Gifts valued at over $100.00 shall become the property of the Tribe, and shall be turned over to the Tribal Property Officer/Fiscal Officer.

(h) An Executive Council Member shall continue any and all appointments obtained in his or her capacity as an Executive Council Member only so long as he or she continues in office. A Member shall immediately resign from all such appointments upon completion of his/her Executive Council term, or upon otherwise leaving office.

(i) An Executive Council Member shall return all records/Tribal documents, Tribal equipment, supplies and any other Tribal property to the Tribe within forty-eight (48) hours/2-days of completing office.

VIOLATION PROCEDURE.

Alleged violations of this Ordinance Code shall be processed in the following manner:

(a) "Roles of the Executive Council." The Executive Council shall be responsible for processing alleged ethical violations under this Ordinance Code.

(b) "Ethical Allegations." Allegations of unethical conduct as defined in this ordinance by an Executive Council Member shall be presented to the Executive Council and processed in the following manner:
VIOLATION PROCEDURE.

(1) Allegations of unethical conduct against an Executive Council Member shall be made in writing and submitted to the Council Chairperson. Providing that an allegation is made against the Council Chairperson, the said allegation shall be filed with the Vice-Chairperson. Submission to the Executive Council Secretary shall be construed as delivery to the appropriate Executive Council Officer.

(2) Any person who believes that an Executive Council Member has engaged in unethical conduct as defined by this Ordinance Code may submit a written complaint. The complaint shall specify the Executive Council Member against whom a complaint of unethical conduct is being made, and the conduct that is alleged to be unethical.

(3) An Executive Council Member may make an oral allegation of unethical conduct against another Executive Council Member during a regular or special Executive Council meeting. Also as such a Tribal Member may make an oral allegation of unethical conduct against an Executive Council Member during a scheduled Tribal Membership meeting. Such an oral allegation shall be treated the same as the submission of a written allegation. The Council Chairperson may ask the person making such an oral allegation questions sufficient to clarify: 1. The Executive Council Member against whom the allegation is being made; 2. the nature of the allegation; or 3. to reduce the allegation to writing.

(4) If an allegation of unethical conduct on the part of an Executive Council Member involves action which allegedly wronged a person and the allegation is made by someone other than the person against whom the unethical conduct allegedly occurred, the person against whom the unethical conduct allegedly occurred shall be notified in writing of the allegation and asked to submit their views on the said allegation.

(c) "Initial Review of Allegation." The Executive Council shall perform an initial review in Executive Session of any allegation of unethical conduct on the part of an Executive Council Member.
VIOLATION PROCEDURE.

(c) "Initial Review of Allegation." This initial review may be conducted at the time the allegation is made, or at any subsequent time during a regular or special Executive Council meeting, provided that such review shall take place no later than thirty-one (31) days after it has been submitted. The purpose of the initial review shall be to determine whether the allegation made falls within the scope of this Ordinance Code and whether, assuming the facts alleged are true, said facts would support a determination of unethical conduct. The Executive Council Member against whom the allegation is made shall not participate in the initial review.

(d) "Investigation." If the Executive Council, upon completion of the initial review, determines that the allegation falls within the scope of this Ordinance Code and alleges facts, which, if true, might support a determination of unethical conduct, the Executive Council shall refer the allegation for investigation as specified below. The Executive Council Member against whom the allegation is made shall be provided with a copy of the allegation, or if made orally, a written summary of the allegation. Executive Council’s determination that an allegation requires further investigation shall not be a final decision of the Executive Council, which must be made in Open Session.

(1) Such investigation may be performed by an ad hoc committee of the Executive Council or by a Special Advisor approved by the Executive Council. If the Executive Council does not approve a Special Advisor, the Council Chairperson shall appoint one.

(2) The Investigator, whether an ad hoc Executive Council committee or Special Advisor, shall have the authority to take testimony under oath, to issue subpoenas, and to compel the production of documents and other evidence. The Executive Council Member against whom an allegation is made, the person allegedly wronged by the Executive Council Member’s action, if any, Members of the Executive Council and the Tribal attorney shall have the right to be present when sworn testimony is given.
VIOLATION PROCEDURE.

(e) **Hearing.** The results of the investigation shall be presented to the Executive Council in Executive Session, in a hearing at which the Executive Council Member against whom the allegation is made, his/her spokesperson, the Tribal attorney, the complainant, and the person allegedly wronged by the Executive Council Member’s action, if any, may be present and may present evidence, cross examine witnesses, and question the Investigator.

(1) The Investigator shall notify the Council Chairperson of the completion of the investigation or of a date when the investigation will be completed. If the investigation will take longer than thirty days (30) to complete, the investigator shall obtain the approval of the Council Chairperson to extend the investigation for a specified period of time.

(2) Any investigation performed under this Ordinance Code shall be completed by the issuance of a written report which summarizes the evidence, gives an opinion on the issue of whether the allegation is true or false and, if the said opinion is that the allegation is true, recommends a sanction, if any, to be imposed on the Executive Council Member.

(3) Upon receipt of the investigation report, the Council Chairperson shall send notice, by certified mail, to the Executive Council Member accused of the ethical violation, the complainant, and the person allegedly wronged by the Executive Council Member’s actions, if any, setting a hearing date and time at a Executive Council meeting not less than ten (10) and not more than forty-five (45) days from the date of the notice, at which the investigation report will be presented and the hearing will take place. A copy of the investigation report shall be included with such notice, along with a statement declaring that the report shall be kept confidential and not disclosed to any other person except the Executive Council Member’s spokesperson.

(4) The hearing shall take place in Executive Session, and shall be recorded. Only the Executive Council, Executive Council Secretary, Tribal attorney, complainant, person allegedly wronged by the Executive Council Member’s actions, if any, Executive Council Member accused of an ethical violation and
his/her spokesperson shall be present during the hearing, provided, that witnesses may be called into the Executive Council Executive Session to testify.

(f) **Deliberation.** At the conclusion of the hearing, the Executive Council Member accused of an ethical violation, complainant, and the person allegedly wronged by the Executive Council Member’s actions, if any, shall be excused from the Executive Session so the Executive Council may review the evidence and consider a decision and sanction, if any.

(g) **Decision.** The Executive Council shall decide in Open Executive Council Session, by recorded vote, whether an ethical violation under this ordinance has occurred. The said decision shall be made by a vote of 2/3 of the entire Executive Council. If the Executive Council decides that an ethical violation has occurred, the Executive Council shall then decide, by motion, an appropriate sanction, if any, to impose on the Executive Council Member who engaged in the unethical conduct. *If any Executive Council Member accused of the ethical violation shall NOT participate nor be present for the decision session of his/her violation.*

**SANCTIONS.**

The Executive Council may impose a sanction or sanctions against any Executive Council Member who is found to have engaged in unethical conduct under this Ordinance Code. Such sanctions may include, but shall not be limited to, the following:

(a) Reprimand, which is defined as a public censure or condemnation administered by the Executive Council;

(b) Restitution;

(c) Suspension;

(d) Expulsion.

Expulsion must follow the requirements set forth in the Habematoel Pomo of Upper Lake Constitution. Suspension shall not exceed three (3) months for any specific violation. During suspension, the suspended Executive Council Member
will not be eligible for any salary, stipends or benefits as an Executive Council Member.

**APPEAL.**

Any Executive Council Member who is found to have violated this Ordinance Code and against whom, sanctions have been imposed by the Executive Council, shall have a right to appeal such determinations to the Tribal Membership of the Habematoolel Pomo of Upper Lake Tribe pursuant to the rules and procedures Ordinance Code. If the Executive Council determines that an allegation of unethical conduct on the part of a Tribal Council member has been submitted for purposes of harassment or for other improper purposes, or is completely without merit, the Executive Council Member against whom such allegation is made may seek appropriate relief through the Tribe.

**CONFIDENTIALITY.**

Executive Council Members, the complainant, any person allegedly wronged by the Executive Council Member’s actions, if any, and any other person involved with investigation or review of an ethical violation under this Ordinance Code shall keep all information obtained in the process set out under this Ordinance Code confidential. The investigation report prepared pursuant to this Ordinance Code shall be confidential. A complainant or person allegedly wronged by the Executive Council Member’s action, if any, or all persons involved with such action shall be required to execute a pledge of confidentiality before being provided a copy of the investigation report, and shall be subject to a fine not to exceed $1,000.00 for violation of said pledge. Any fine collected pursuant to this section shall be credited to the Tribe’s General Fund Account. Violation of this section shall be a violation of this Ordinance Code for Executive Council Members, grounds for discipline of tribal employees, and grounds for any appropriate sanctions for other persons up to $1,000.00 fine and including grounds for removal of said position.

**ROLE OF TRIBAL COUNCIL MEMBER ACCUSED OF ETHICAL VIOLATION.**

An Executive Council Member against whom an allegation of unethical conduct under this ordinance is made shall not participate in review of the allegation by the Executive Council, consideration by the Executive Council of whether unethical conduct occurred and an appropriate sanction for such conduct, or voting in Open Session on whether an ethical violation occurred and on an appropriate sanction.
SEVERABILITY.

If any provision of this Ordinance Code shall be held unconstitutional or invalid by the Habematoolel Pomo of Upper Lake Tribe, only the invalid provision or language shall be severed and the remaining provisions and language of this Ordinance Code shall remain in full force and effect.

CERTIFICATION

We the undersigned Chairperson and Secretary of the Executive Council of the Habematoolel Pomo of Upper Lake (The Tribe), do hereby certify that by a vote of the General Membership, held on June 12, 2004 in Lakeport, California, where a quorum as present, that the foregoing Code of Ethics Ordinance was adopted by a vote of 41 Yea's, 8 Nays, and 3 Abstentions.

We further certify that this Ordinance Code has not been rescinded, amended, or modified in anyway.

Date Signed: July 8, 2004

ATTEST:

Carmella Icay-Johnson, Executive Council Chairperson

Angelina Arroyo, Executive Council Secretary
The Executive Council of the Habematolel, Pomo of Upper Lake, as the governing body empowered to enact codes and ordinances to regulate the use of all Tribal Land pursuant to Article X, Section 1(J) of the Tribe’s Constitution, and further empowered to manage, develop, protect, and regulate all Tribal Lands pursuant to Article X, Section 1(F) and other powers articulated in Articles X and XI, hereby enacts the following:

Section 1. **Findings**

The Executive Council finds and declares as follows:

A. The Habematolel, Pomo of Upper Lake, aboriginal lands located in Lake County and centered in Upper Lake, California (“Habematolel Territory” as further defined below), is the homeland of the Tribe.

B. The Tribe has inherent authority, as a sovereign, to protect and preserve the homeland of the Tribe, including the ability to regulate, by this Cemetery Ordinance, the designation, development, use and maintenance of Tribal lands for the purposes of burying human remains.

C. Uncontrolled and unregulated land use and development poses a threat to the health, safety and welfare of the Tribal Members (defined below).

Therefore, the Executive Council adopts this Ordinance to protect and promote the health, safety, welfare, culture, history, and political autonomy of the Tribe and its members, by establishing procedures for the designation, development, control, use, maintenance and regulation of the land within the Territory for cemetery-related purposes specifically, so as to protect and preserve the environment, lands, culture, religion, natural resources and aesthetic of the Territory in accordance with the Tribe’s custom and tradition.

Section 2. **Definitions**

For the purposes of this Ordinance, the following words shall have the following meanings:

A. “Child” or “Children” means the biological, step, and adopted
children of a Tribal Member or children of a common law marriage where that marriage took place in a jurisdiction which recognizes common law marriages where at least one spouse is an enrolled Tribal Member.

B. “Cemetery” means the parcel(s) of land designated by the Tribe, through the Executive Council, for use of burial of those persons specified in this Ordinance and in accordance with this Ordinance.

C. “Cemetery Director or designee” means the person designated by delegation of authority, job description and scope of work by the Executive Council to carry out specific duties outlined in this Ordinance or others as need by the EC in relation to this Ordinance.

D. “Demonstrable Connection” means a connection to the Tribe, its history and its culture over a substantial period of time, typically at least 10 or more years, as evidenced by specific selfless contributions to the Tribe’s self-determination efforts, whether through cultural, historic or economic-focused measures, as determined by the EC in its sole discretion.

E. “Executive Council” refers to the Tribe’s governing body empowered to enact ordinances under the Tribe’s Constitution.

F. “Family” means a Tribal Member’s parents, spouse (at the time of death), sibling, and children, even if such persons are not Tribal Members.

G. “Good Standing” means a person who is a Native American (i.e. a currently-recognized member of a federally recognized Indian Tribe) and whose association with the Tribe, in the sole discretion of the Executive Council, is desirable.

H. “Habematoolel Pomo of Upper Lake Territory” or “Territory” means all interests in real property of the Tribe, whether title to which is held in trust by the United States on behalf of the Tribe, or in fee presently or at any point in the future, including but not limited to the 11.24 acre parcel that was taken into trust for the Tribe in 2008 as well as the lands that were recently reacquired by the Tribe (former Tribal lands that include our Tribal Cemetery and other lands of historical, cultural and sentimental value to the Tribe) and are in the process of being placed into trust for the Tribe. This definition specifically excludes any lands identified in the Plan for the Distribution of the Assets of the Upper Lake Rancheria, as approved by the Secretary of the Interior on January 14, 1960, when persons or entities other than the Tribe hold such lands.
I. "Native American" refers to a person who is a currently-recognized member of a federally recognized Indian tribe, other than the Habematoolel Pomo of Upper Lake.

J. "Parent" means the biological, step and adopting parent of a Tribal Member.

K. "Sibling" means the biological or adopted brother or sister of a Tribal Member.

L. "Spouse" means the husband, wife, or domestic partner of a Tribal Member. For purposes of this Ordinance, this definition shall include a common law husband or wife of a Tribal Member where that marriage took place in a jurisdiction which recognizes common law marriages, as well as a domestic partner, regardless of whether it is a "registered" domestic partnership, and also regardless of whether the domestic partner is of the same or opposite sex.

M. "Tribe" or "Tribal" refers to the Habematoolel, Pomo of Upper Lake, a federally recognized tribe.

N. "Tribal Member" refers to a currently enrolled recognized member of the Habematoolel Pomo of Upper Lake.

O. "Vandalism" means the willful and unauthorized destruction or defacing of any land, monument, marker, tree, shrub, plant, building or other natural or artificial structure on Cemetery grounds.

Section 3. Purpose

The purpose of this Ordinance is to: (1) formally designate land that is to be used for the burial of Tribal Members and other eligible persons within the Territory; (2) establish a process for future designation of Territory land for such purposes; and (3) ensure that such designated land is used, maintained, and developed in a manner that preserves the health and safety of persons on the Habematoolel Territory, as well as the historical and cultural values of the Tribe.

Section 4. Jurisdiction

The provisions of this Ordinance shall apply to the entire territory of the Habematoolel Territory as it currently exists, and to such future annexations of property as are approved in accordance with the Tribe’s Constitution.

Section 5. Administration

A. The Executive Council shall ultimately administer the provisions of
this Ordinance, with assistance from other designee(s) as needed (such as a Cemetery Director) at the Executive Council’s discretion, and shall propose future amendments to this Ordinance, as it deems necessary and prudent and as are consistent with the Tribe’s Constitution, including but not limited to Article XI - Land.

B. Duties of the Executive Council or its designee(s) in relation to this Ordinance shall be as follows:

1) Carry out the duties and responsibilities specifically identified in this Ordinance in conformity with the Tribe’s Constitution and all other applicable law, including through the establishment of regulations;

2) Meet with the kin or other interested party of a person permitted to be buried pursuant to this Ordinance whenever a plot or burial is requested;

3) Verify eligibility for burial in the Cemetery by conferring with the Tribe’s Enrollment Committee and reviewing other related documents related for eligibility. Maintain vital statistics of the deceased and report such information as may be required by the Tribe, to the Enrollment Committee for Tribal record;

4) Ensure that there is a death certificate, disposition permit or other official record of death certified by physician or pathologist for the deceased individual before allowing his or her remains to be interred at the Cemetery;

5) Survey the land designed to be used for the Cemetery to be surveyed and mapped into burial plots, drives, and walks. The recorded map shall be maintained by the Executive Council, or Cemetery Director/ Designee(s) if any, and no such plot or map shall be recorded unless laid out and plotted to the satisfaction of the Executive Council;

6) Sell and convey the right to use plotted plots, including the determination of where persons will be buried in accordance with any applicable Tribal regulation and the wishes of the person(s) involved, expressly restricting the use to burials and upon other such terms, conditions, and restrictions as defined in the Cemetery guidelines, which are established by the Executive Council.

7) Administer all payment fee’s related to this Ordinance;

8) Determine how to utilize gifts given to the Cemetery.
C. The Executive Council may delegate the above-stated duties, as needed.

Section 6. Tribal Cemetery Designation

The Executive Council hereby designates that land recently re-acquired by the Tribe, designated as APN 003-062-070-000 as the Tribe’s Cemetery (address: 10315 Dewell Rd. Ext., Upper Lake, CA).

In the future, the Executive Council may designate parcel(s) of land to be used as a Tribal Cemetery.

Section 7. Tribal Cemetery Use and Burial Requirements

A. Eligibility for Burial in Cemetery: Tribal Members and their Families, as well as other Native Americans and persons who have a demonstrable connection to the Tribe (in the sole discretion of the Executive Council) may be buried in the Cemetery. In addition, human remains that fall within the following two categories may be interred in the Cemetery: (i) Human remains returned to the Tribe; or (ii) Human remains discovered on the existing or historical Tribal lands and the Tribe determines that the Cemetery is the most suitable place for interment of the remains.

B. Repatriated Remains: Human remains shall be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA). All human remains returned to the Tribe shall be the responsibility of the Executive Council or its designee(s) to re-bury in an appropriate location within the Cemetery.

C. Eligibility for Plot Use Purchase: Subject to the priority order stated below, anyone may purchase the right to use a Cemetery Plot for individuals eligible to be interred in the Cemetery as specified above in Section 7(A). The owner of the plot shall be the individual for whom the plot usage right was purchased.

While anyone may purchase the right to use a Cemetery Plot as specified in this Ordinance, priority is given to individuals who are purchasing plots for interment of the following persons, in the following order:

1. Tribal Members;

2. Family of Tribal Members (in no particular order of preference within this second tier, i.e., Parents, Grandparents, Children, Siblings and Spouses all have equal standing within this second tier such that, for example, Spouses do not have
priority over Children or others listed in this second tier);

3. All other documented Native Americans who have a Demonstrable Connection to the Tribe and are in Good Standing (in the sole discretion of the Executive Council); and

4. All other persons who have a demonstrable connection to the Tribe (in the sole discretion of the Executive Council).

D. **Timing of Burial Plot Purchase:** Any person eligible to purchase a burial plot, as set forth above, may only do so for themselves or another who is eligible to be interred in the Cemetery as specified above in Section 7(A) if the person to be interred is either: (1) terminally ill as certified by a medical doctor; or (2) over the age of 70.

E. **No Ownership of Purchased Burial Plots:** Purchase of a plot does not result in the transfer of any ownership rights in the plot itself, but grants an individual the right to be interred in the plot, or determine who will be interred in the plot, subject to the eligibility requirements of this Ordinance. There is no ownership interest or title to the plot conveyed in purchasing a burial plot.

   i. The right to use burial plots that have been purchased may only be willed to Family members of the purchaser who are eligible for burial under this Ordinance, and may not otherwise be transferred.

   ii. In the event the owner of a plot becomes ineligible to be interred in the Cemetery, he or she shall resell the plot to the Tribe in accordance with Section 7(F) below.

   iii. A plot is not inheritable, and may only be transferred from one owner to an individual eligible to be interred in the Cemetery as defined above.

F. **Plot-Related Fees:** The proceeds of sales of plots shall be used solely for the care and improvement of the Cemetery and avenues leading thereto, and operating expense. All fees shall be paid prior to burial. The price of plots and services are as follows, and may be revised from time to time at the discretion of the Executive Council:

1) Plot Use-Rights Purchase for Casket: $500

2) Plot Use-Rights for Urn: $250

3) Plot Opening and Preparation for Burial: $300
4) Plot Closing: $200

5) Plot Marking: $100

The Executive Council may waive or modify these fees for Tribal Members and/or their non-Tribal spouses, family, and children who wish to be buried in the Cemetery and who, in the sole discretion of the Executive Council, are indigent or otherwise worthy of receiving a fee waiver or modification.

In addition, the Tribe may provide financial assistance to Tribal Members and other qualified persons pursuant to Tribal General Welfare Programs established under the Tribal General Welfare Ordinance. Interested persons should consult the Tribal Administrator for direction regarding the availability of such assistance, the procedures for applying for the same and related matters. Such assistance may cover, or assist in coverage, costs related to funeral, burial expenses (including Plot-Related Fees), and other bereavement events.

Finally, the Tribe recognizes that some people may wish to open a plot, prepare it for burial, close it, and/or mark it themselves. We respect that such actions may be how some of our Tribal Members and related persons honor the passing of the person to be buried. Accordingly, the Executive Council shall permit such persons to engage in any or all of these activities, provided there is minimal supervision in order to ensure the activities do not disrupt other plots, grave sites, or parts of the Cemetery. In the event that individuals open a plot, prepare it for burial, close it, and/or mark it themselves as set forth in this paragraph, the Executive Council will waive the related costs stated above.

G Resale of Plots: Plots may only be resold to the Tribe through the Executive Council. Plots resold to the Tribe shall be purchased at the original selling price.

H Burial

1) All burial orders must be presented to the Executive Council and its designee(s) at least 72 hours before burial, unless there are unique circumstances justifying a shorter period, including but not limited to those set forth in sub-sections 3 and 4, below.

2) All non-cremated human remains must be buried in the ground at least six (6) feet deep and in a location within the Cemetery as designated by the Executive Council. All cremated human
remains must be buried in the ground at least three (3) feet deep and in a location within the Cemetery as designated by the Executive Council.

3) Any body dying of a deadly contagious disease must be immediately placed in a coffin, the coffin sealed and not reopened, and buried in a cement vault within 24 hours after death.

4) Any un-embalmed and non-cremated remains must either remain refrigerated until burial or be buried within 48 hours after death.

5) A cement liner or vault, while recommended, is not required for the burial site except as specified above. However, if a cemetery liner or vault is purchased by the Family of the deceased, the vault company is required to deliver and install it in the designated burial site. The Tribe does not provide pall bearers.

6) A casket/urn, while recommended, is not necessary for burial or cremation except as specified above.

7) Due to weather conditions, it may be necessary to temporarily postpone burial side services and/or burial of the deceased. The final decision to postpone burial side services shall be made by the Executive Council or its designee in consultation with the family.

8) A combination of four (4) burials may take place in each plot as follows: one (1) full burial and three (3) remains; two (2) full burials and two (2) remains; or four (4) remains. Double full burials in one grave shall be one above the other. Each additional opening of the plot will require a plot opening and closing fee, as well as a marking fee.

9) Funeral Processions: The Executive Council or its designee(s) shall be responsible for providing funeral directors with the necessary information so that funeral processions on Cemetery grounds are carried out in a respectful manner.

10) Discovery of human remains, culturally significant artifact or funerary objects; cease digging and contact the Executive Council or their designee

11) Should the family wish to dig the plot; a designee for the family will have to execute a release of liability which includes language assuring they will refrain from disrespectful and disorderly behavior while on cemetery grounds.
Section 8. **Maintenance of the Cemetery and Burial Sites**

The Tribal Cemetery is a location provided for our Tribal community, where we may remember and honor our family members, friends and ancestors in a manner that respects them and other members of our community who are rightfully using the Tribal Cemetery for such purposes. This is the guiding principal for all activity related to use and maintenance of the Cemetery. Thus, whether it concerns flags/banners, monuments/markers, flowers, or similar items used to honor, remember, and memorialize our friends, family members and ancestors, all such items shall be installed and maintained in a respectful manner and in a manner that does not unreasonably or regularly interfere with others’ proper and rightful use of the Tribal Cemetery. For example, the images, words and other attributes of flags and banners must be respectful and consistent with something that is placed in a shared location to honor our ancestors.

Persons interested in planting living plants, flowers or trees must first consult the Executive Council to ensure that such a planting, including the related root structure development and plant growth, will not disturb human remains or otherwise interfere with the respectful use of the Cemetery. The Executive Council will also provide a common area that is within the Cemetery but unrelated to any particular plot(s) for the purpose of planting memorial trees, flowers, and other similar items. The Executive Council or its designee(s) will also arrange for the proper care of such plants, trees, and flowers placed in the common areas within the Cemetery (including irrigation, pruning, and similar care to ensure the longest possible life of such items).

Persons wishing to install benches or seating for a specific plot or multiple specific plots must also first consult the Executive Council to ensure that installation of such items does will not disturb human remains or otherwise interfere with the respectful use of the Cemetery. The Executive Council or its designee(s) will also provide seating in a common area that is within the Cemetery but unrelated to any particular plot(s), and it will arrange for the proper care and maintenance of such items.

Section 9. **Respectful Behavior on Cemetery Grounds**

As stated above, the Tribal Cemetery is a location provided for our Tribal community, where we may remember and honor our family members, friends and ancestors in a manner that respects them and other members of our community who are rightfully using the Tribal Cemetery for such purposes. The Cemetery should not be used for any other purpose. All persons entering and using the Cemetery must conduct themselves in a manner that is always respectful of the Tribal Cemetery, the people who are buried there, and the other people who use the Tribal Cemetery to honor and remember their departed. Anyone acting in a disrespectful manner may be asked to immediately stop that disrespectful conduct. In addition, in the event there are especially offensive or recurring disrespectful conduct, the Executive Council
may engage in other measures to ensure proper respect is maintained at all
times.

Section 10. Disinterment

Disinterment from the Cemetery shall only occur upon order of the Executive
Council. Disinterment is an extraordinary remedy that shall only be ordered
when all other reasonable means for obtaining the requester’s objective have
been exhausted and when the Tribe’s Executive Council determines that
substantial cause exists to order disinterment following a hearing as described
below.

A. A request to the Tribe’s Executive Council to issue an order for
disinterment from a Cemetery may be made by the following
persons, in the following order of priority:

1. The surviving Spouse of the deceased;
2. An adult Child of the deceased;
3. An adult Sibling of the deceased;
4. A Parent of the deceased;
5. A legal guardian of the deceased as the time of the deceased’s
death.

B. A requester shall notify the Executive Council and all individuals of
the same or higher priority (as listed in Section 10(A) above) of his
or her intent to request that the Executive Council issue an order of
disinterment. If any member of the same or higher priority (as listed
in Section 10(A) above) cannot be located, this, along with efforts
taken to locate the individual(s), shall be reported to the Tribe’s
Executive Council. Notification shall specifically state:

1. The requester’s intent to obtain an order of disinterment;
2. The reason for the disinterment;
3. The place of re-interment or intent of the requestor to
   have human remains cremated; and
4. That any objections shall be filed with the Executive
   Council within five (5) business days of receipt of the
   notification or may be presented at the hearing (below)

C. Upon receipt of notice of a request for disinterment, the Executive
Council shall set a hearing date on the disinterment request at the
earliest possible time after the deadline for filing objections has
passed and shall issue an order on the matter within ten (10) days
after the hearing, taking into consideration:

1. The manner in which the deceased died;
2. Whether disinterment would create a public health risk or
3. The decedents wishes, if known;
4. Any objections filed with the Executive Council or presented at the hearing;
5. Whether an order of disinterment from a non-Tribal court or other authority has been issued;
6. Whether any required permits regarding re-interment have been obtained; and
7. Any other factors deemed relevant by the Executive Council.

All factors listed in Section 10(C) (1-7) above shall be considered by the Executive Council when determining whether to allow disinterment, although the Executive Council may deny the request for disinterment based solely on any objections to the disinterment filed or presented by an individual with the same or higher priority as the requester.

The Executive Council may, for good cause, extend the time for an order to be issued for an additional ten (10) days.

The Executive Council may issue an additional order(s) to assist the requester in obtaining his or her objective for disinterment, including testing, inspection, and/or transportation of the remains.

D. Any appeal of an order issued under this Section 10 must be filed within five (5) business days after the order is issued.

E. If no appeal of an order for disinterment issued under this section has been filed, disinterment shall take place within sixty (60) days after the final judgment has been issued.

F. Following disinterment, the remains of the deceased person shall be reinterred or cremated within 48 hours.

G. The Executive Council shall be present at each disinterment and re-interment that occurs in the Cemetery and shall have authority to restrict who may be present during a disinterment or re-interment.

H. The requester shall be responsible for making all arrangements and incurring all costs associated with disinterment and re-interment.

Section 11. Enforcement

Enforcement of this Ordinance shall be by the Executive Council.

A. Violations of this Ordinance shall be subject to the jurisdiction of the Tribe. The Executive Council shall act on all reported violations
of this Ordinance. Wherever possible, the Executive Council shall grant the alleged violator an opportunity to correct the reported violation within a specified time, at his or her sole expense.

B. If the alleged violator fails to take corrective action upon being given the opportunity, the Executive Council shall notify the alleged violator by certified mail, return receipt requested, that he/she may be assessed a fine for the violation.

Section 12. Appeals

A. Any person aggrieved by an action of the Executive Council in relation to the implementation or administration of this Ordinance may make an appeal by filing a notice of appeal with the Tribal Court of Appeals, whose decision shall be final and binding upon all parties concerned. If no working Court of Appeals has been established, then the Executive Council shall appoint one from the Voting General Membership, consistent with Article XII of the Constitution, for the limited purposes of appeal under this Ordinance and Article XI of the Constitution. In either scenario, the following procedural standards apply.

1. An appeal of any decision under this Ordinance or Article XI of the Constitution must be filed within fifteen (15) calendar days of the action by the Executive Council that is the subject of the appeal.

2. An appeal is filed by submitting the appellate papers to the Tribal Court of Appeals, or if no working Court of Appeals has been established, then to the Executive Council, to the attention of the Secretary, via registered mail with return receipt.

B. The Tribal Court of Appeals (or those appointed to that function by the Executive Council consistent with Article XII of the Constitution) shall consider the appeal and the record upon which the action appealed from was taken. The aggrieved party has the right to be heard by the appellate body, as does the Executive Council.

C. Within sixty (60) days of submitting the appeal, the Tribal Court of Appeals (or those appointed to that function by the Executive Council consistent with Article XII of the Constitution) shall render its decision on the matter in writing.

D. The decision of the Tribal Court of Appeals (or those appointed to that function by the Executive Council consistent with Article XII of the Constitution) upon an appeal is final and conclusive as
to all things involved in the matter.

Section 13. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

Section 14. Sovereign Immunity

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action taken pursuant to this Ordinance.

Section 15. Amendments

This Ordinance, or any section herein, may be amended at any time in accordance with the Tribe’s Constitution.

Section 16. Construction

To the extent that this Ordinance may be inconsistent with prior Tribal laws, this Ordinance shall prevail.

Section 17. Effective Date

This Ordinance shall take effect immediately upon passage.

{CERTIFICATION ON THE NEXT PAGE}
CERTIFICATION

We the undersigned Officers of the Habematoel Pomo of Upper Lake (the "Tribe"), being the Chairperson and Secretary of the Executive Council (EC) of the Tribe, do hereby certify that the Executive Council is composed of seven (7) Council Members, of which 7 were present, constituting a quorum, at a monthly meeting thereof, duly called, noticed and conducted on this day of October 26, 2018 and that this Resolution was adopted by an affirmative vote of 5 YEAS, 1 NAY, and 1 ABSTENTION. We further certify that since its amended adoption the Resolution and/or Enrollment Ordinance has not been rescinded, amended, or modified in any way.

DATED SIGNED: November 16, 2018

ATTEST:

[Signature]
SHERRY TREPPA,
Executive Council (EC) Chairperson

[Signature]
IRIS PICTON,
Executive Council (EC) Secretary
HABEMATOLEL POMO OF UPPER LAKE
DOG/CANINE ORDINANCE

Adopted: 10-26-2018, Resolution No. 10-18-05

Ordinance Number
2018-10-02

TITLE:

This ordinance shall be known as the Stray Dog/ Nuisance Ordinance.

AUTHORITY:

The Habematolel Pomo of Upper Lake Executive Council is the duly elected governing body of the Habematolel Pomo of Upper Lake Tribe; a federally recognized Indian Tribe which is eligible for all rights and privileges afforded to a federally recognized Indian Tribe and enacts this Ordinance by the power and authority granted under the Habematolel Pomo of Upper Lake Constitution.

PURPOSE:

The purpose of this ordinance is to address the problems of stray dogs and/or dogs at large located on lands recognized by the Habematolel Pomo of Upper to be tribal lands. Additionally the intent is to cause owners of the offending animals to be responsible for the actions of the animals. It is also to cause the owner’s to bear responsibility for their own actions or inactions regarding the keeping and caring of dogs on tribal lands.

DEFINITIONS:

Running At Large - A dog running at large means any dog found within the boundaries of Tribal lands, on public property or other person(s) property that is not properly restrained.

Animal Care & Control Authority - This term means a person appointed to receive complaints and determine solutions. The person would have authority given to him/her by the Habematolel Pomo of Upper Lake, Executive Council. It would also mean any local or state animal care and control agencies that are called in for assistance.

Stray Dogs - A stray dog is a dog without an owner’s identification tag/collar and whose owner cannot be located or contacted.
DEFINITIONS:

Vicious Dogs: This term means any dog that when unprovoked:
- Inflicts bites on humans or domestic animal(s) on either public or private
  property; or
- Chases or approaches a person upon the street or any public or private
  property in a threatening manner, or any dog with a known propensity,
tendency, or disposition to attack when unprovoked; to cause injury or
otherwise threaten the safety of humans or other animals.

A proper enclosure for a vicious dog is the following:
- Securely enclose dog/canine indoors;
- A securely enclosed pen that locks that provides means of avoiding the
  elements. There also should be adequate water, food and shelter provided for
  all dog(s)/canine(s).

Owner - This term means any person, firm, corporation, organization, or department
possessing, harboring, keeping, having an interest in, or having control or custody of
an animal.

Tribal Lands – All land recognized by the Habematolel Pomo of Upper Lake to be
utilized by Tribal Members and descendants of the Tribe and within the boundaries of
the “Old Upper Lake Rancheria.”

Section 1. Running-At-Large
No person owning or having control of any dog shall allow him to run at large within the
boundaries of Tribal lands.

Section 2. Vicious Dogs
No person shall keep, own, or possess within Tribal lands any vicious dogs unless
securely contained as referred to above. They also may be walked on a leash by a
responsible party who can keep the animal under control/restrained. Vicious dogs should
never be allowed to run at large at anytime.

Section 3. Duty of Owner Found Harassing Livestock.
It shall be the duty of the Owner/Keeper of any dog(s) found chasing, biting, or injuring
any livestock, domestic animals or game animals to prevent this action. If the animal is
injured appropriate action against the dog and Owner(s) shall be instituted. This can
include monetary recompense, detainment of the dog(s) at the local animal care and
control facility, or in extreme cases euthanasia.

Section 4. Liability of Owners
The Owner shall be responsible for damages caused by its animal. The only exception is
when the animal is provoked and it can be proven. The Habematolel Pomo of Upper
Lake, Executive Council shall have final decision in these matters.
Section 5. Identification and Registration
Any dog found within Tribal lands shall be duly licensed by the County of Lake, Animal Care and Control. The dog/canine(s) shall wear those tags at all times outside of the Owner’s personal property/fencing. The Lake County Animal Care and Control shall be the agency to issue legal licensing for all animals (domestic, exotic or game).

Section 6. Seizure of Dog(s) Running At Large
Any dog found running at large will be considered in violation of this HPUL Dog/Canine Ordinance and shall be subject to seizure by the local county Animal Care and Control Authority.

Section 7. Enforcement
The Habematolel Pomo of Upper Lake Tribe may bring an action for a civil penalty against any person(s) who have violated this HPUL-Dog/Canine Ordinance. The Habematolel Pomo of Upper Lake Tribe may bring any action for forfeiture of any articles or animals seized by reasons of use in activities prohibited under this HPUL-Dog/Canine Ordinance. Such action may include the imposition of a fine, not to exceed $500.00; plus assessment of any cost the Habematolel Pomo of Upper Lake Tribe may have incurred through the impounding of the offending animal(s).

CERTIFICATION

We the undersigned Officers of the Habematolel Pomo of Upper Lake (the “Tribe”), being the Chairperson and Secretary of the Executive Council (EC) of the Tribe, do hereby certify that the Executive Council is composed of seven (7) Council Members, of which 7 were present, constituting a quorum, at a monthly meeting thereof, duly called, noticed and conducted on this day of October 26, 2018 by way of Resolution was adopted by an affirmative vote of 5 YEAS, 0 NAYS, and 1 ABSTENTIONS. We further certify that since its adoption this Resolution has not been rescinded, amended, or modified in any way.

DATED SIGNED: November 6th, 2018
ATTEST:

[Signature]
SHERRY TREPPE,
Executive Council (EC) Chairperson

[Signature]
IRIS PICTION,
Executive Council (EC) Secretary