

**TITLE 2 – GOVERNMENT ADMINISTRATION  
PART I – TRIBAL COUNCIL  
CHAPTER 1-2 – TRIBAL COUNCIL CODE OF ETHICS AND STANDARDS OF CONDUCT**

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*Legislative History: Code of Ethics Ordinance of 2006 adopted on January 18, 2006 by Resolution No. C01-19-06 and Ordinance No. (01)06.*

**Section 1 Short Title; Codification**

- (A) This ordinance shall be known as the “Tribal Council Code of Ethics and Standards of Conduct Ordinance of 2006.”
- (B) This ordinance shall be codified at Title 2, Chapter 1-2, Sections 1 – 110.

**Section 10 Purpose (2 PYTC § 1-2-10)**

Members of Tribal Council are vested with authority to represent and act on behalf of the tribal membership and the Pascua Yaqui Tribe. The Council exercises exclusive legislative authority under the Constitution. As such 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 Council Members, to define Standards of Conduct for Council Members, and to set forth the consequences for violating these obligations.

**Section 20 Policy (2 PYTC § 1-2-20)**

Tribal Council Members shall maintain the highest standards of honesty, integrity, fairness and impartiality in their conduct as Council Members, and shall avoid any actions which would adversely reflect on the Tribal Council or the Pascua Yaqui Tribe. Council Members shall take action in the best interest of the Tribe and the tribal membership, not in their personal interest. Council Members shall not engage in behavior involving a conflict of interest, or acts that involve actual or apparent impropriety, as those terms are defined in this ordinance. 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 used in Article X, Section 1 of the Constitution.

**Section 30 Definitions (2 PYTC § 1-2-30)**

- (A) “Conflict of Interest” means: i) action or conduct by a Council Member which is in conflict with the Council Member’s obligation to take actions in the best interest of the Tribe and the tribal membership; or ii) when the Council Member, or his immediately family, has or may foreseeably develop a personal or financial interest that is separate or adverse to the Tribe.
- (B) “Actual or Apparent Improprieties” means those acts involving an actual impropriety (such as illegal acts) while serving on behalf of the Tribe; acts involving an abuse of power; acts involving dishonest conduct; or acts that would do a disservice to the Tribe’s reputation.
- (C) “Immediate Family” means spouse, parents, brothers, sisters, children, siblings of parents and/or other legal dependents.

**Section 40 Ethical Obligations (2 PYTC § 1-2-40)**

- (A) Council Members shall not take any official action, whether in a Tribal Council meeting, committee meeting, or otherwise, in which the Council Member, or a member of his or her immediate family, has a personal or financial interest which could be affected by such action.

- (B) Council Members shall not act as official representatives of the Tribal Council or the Tribe, or make statements to the media, without express authorization of the Tribal Council or the Chairperson. The Chairperson is the official representative of the Tribe and the Tribal Council, unless that authority is otherwise properly delegated.
- (C) Council Members shall not bring an action as a tribal member before any court, federal or state government in any proceeding in a matter in which the Tribe is a party or has an interest.
- (D) Council Members shall attend all required meetings. Three successive unexcused absences shall constitute a violation of this ordinance.
- (E) Council Members shall not interfere with or participate in any tribal employment decisions related to his or her immediate family.
- (F) Council members shall not become or remain employed as a tribal employee. A tribal employee who becomes a Council Member shall resign his or her employment upon being sworn into office. A Council Member who accepts employment as an employee of the Tribe or a tribal entity shall resign his or her office before commencing his or her first day of employment. Council Members shall not take employment that is not compatible with their duties and responsibilities to the Tribe as a Council Member or Officer of the Tribe.
- (G) Council Members shall not engage in any personal investments that they become aware of as a result of their position in the Tribe unless they first disclose the opportunity to the Tribal Council and the Council votes to not take advantage of the opportunity.
- (H) Council Members shall not vote on the contracting or procurement of goods in which they or their immediate family have a personal or financial interest, unless the interest is fully disclosed to the Tribal Council and the Council votes and approves the transaction.
- (I) Council Members shall not accept on his or her own behalf, or on behalf of their immediate family, individual gifts valued at over \$150.00, except for the following:
  - (1) Ceremonial and customary gifts generally granted to dignitaries;
  - (2) Food and refreshments of a nominal value in the ordinary course of a luncheon or dinner meeting;
  - (3) Personal achievement awards for meritorious service;
  - (4) Unsolicited advertising or promotional material of nominal value;
  - (5) Loans on customary terms to finance proper and usual activities on the same basis as any enrolled member of the Tribe.
- (J) Council Members shall not accept on his or her own behalf, or on behalf of their immediate family, any gifts, monetary or otherwise, intended for the Tribe.
- (K) Council Members shall not knowingly making public any confidential information received in connection with one's duties as a council member, including but not limited to:
  - (1) Matters discussed during Tribal Council study or executive sessions;
  - (2) Matters protected as confidential under Tribal, federal, or state law;
  - (3) Information given to a tribal official or employee with the reasonable expectation that such information would be kept confidential.

**Section 50 Prohibition on Improper Conduct (2 PYTC § 1-2-50)**

- (A) Improper conduct prohibited under this ordinance includes, but is not limited to, the following:
- (1) Abuse of power, such as using one's position to coerce, threaten, intimidate, or improperly influence a tribal member or tribal employee to provide personal, financial or political benefit to oneself or immediate family, or someone they have business or financial ties to, or for any other purpose, or using one's official title in Tribal government to conduct personal business;
  - (2) Unauthorized participation or involvement in Executive Branch administration and operations, including, but not limited to, business, program, law enforcement, employment, and personnel decisions.
  - (3) Unauthorized participation or involvement in any tribally owned or operated enterprise operations, including, but not limited to, business, employment, and personnel decisions.
  - (4) Intoxication or under the influence of illegal drugs while conducting official tribal business;
  - (5) Misappropriation or misuse of Tribal funds or property;
  - (6) Unauthorized disclosure, concealing, removing, mutilating, or destroying Tribal records, or copying Tribal records for improper purposes;
  - (7) Committing perjury or fraud;
  - (8) Violating the Tribe's laws, ordinances, resolutions, rules, regulations or policies;
  - (9) Any other acts prohibited by tribal, federal or state law.

**Section 60 Procedure to Investigate Tribal Council Members (2 PYTC § 1-2-60)**

- (A) The Tribal Council shall be responsible for investigating any alleged violations under this ordinance.
- (B) Allegations of unethical or improper conduct as defined in this ordinance by a Tribal Council Member shall be presented to the Tribal Council and processed in the following manner:
- (1) Allegations of unethical or improper conduct against a Council Member shall only be made in writing and submitted to the Chairperson, provided that if an allegation is made against the Chairperson, said allegation shall be filed with the Vice-Chairperson. Submission to the Council Secretary shall be construed as delivery to the appropriate Council Officer.
    - (a) A written complaint may be submitted by any Council Member, Tribal Member, or Tribal Employee who believes that a Council Member has engaged in unethical or improper conduct as defined by this ordinance. The complaint shall specify the Council Member against whom a complaint is being made, and the conduct that is alleged to be unethical or improper.

- (b) If an allegation of unethical or improper conduct involves action which allegedly wronged a person, the complaint can only be made by the person against whom the unethical or improper conduct allegedly occurred.
  - (c) The Council Member against whom the allegation is made shall be provided with a copy of the allegation.
- (2) The Tribal Council shall perform an initial review in executive session of the allegation and complaint. Such review shall take place no later than 31 days after the complaint has been submitted. The purpose of the initial review shall be to determine whether the allegation made falls within the scope of this ordinance and whether, assuming the facts alleged are true, said facts would support a determination of unethical or improper conduct. The Tribal Council member against whom the allegation is made shall not participate in the initial review.
- (3) If the Tribal Council, upon completion of the initial review, determines that the allegation falls within the scope of this ordinance and alleges facts which, if true might support a determination of unethical or improper conduct, the Tribal Council, by majority vote, may refer the allegation for investigation. Tribal Council determination that an allegation requires further investigation shall not be a final decision of the Tribal Council which must be made in open session.
  - (a) Any investigation requested by the Tribal Council may be conducted by ad hoc committee of the Council, the Internal Audit Department, or an independent, outside investigator appointed by the Tribal Council.
  - (b) The investigator shall have the authority to take testimony under oath, to issue subpoenas, and to compel the production of documents and other evidence. The Council Member against whom an allegation is made, the complainant, members of the Council, and OAG shall have the right to be present when sworn testimony is given.
  - (c) Any investigation performed under this ordinance 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 said opinion is that the allegation is true, recommends a sanction, if any, to be imposed on the Council Member.
  - (d) The investigator shall notify the Chairperson of the completion of the investigation or of a date when the investigation will be completed. If the investigation will take longer than 30 days to complete, the investigator shall obtain the approval of the Chairperson to extend the investigation for a specified period of time.
- (4) Upon receipt of the investigation report, the Chairperson shall:
  - (a) Send notice, by certified mail, to the Council Member accused of the ethical violation and the complainant; and
  - (b) Set a hearing date and time not less than ten and not more than 45 days from the date of the notice, at which the investigation report will be presented.
  - (c) 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 Council Member's spokesperson.

- (5) If Council does not request an independent investigation, then the Chairperson shall set a hearing date not less than ten and not more than 45 days from the date of the initial review.
- (6) The hearing shall take place in executive session, with all Tribal Council members present, and shall be recorded. The results of the investigation, if any, shall be presented to the Tribal Council. Only the Tribal Council, OAG, complainant, accused Council Member and his or her attorney shall be present during the hearing, provided that witnesses may be called into the Tribal Council executive session to testify.

**Section 70 Final Determination (2 PYTC § 1-2-70)**

- (A) At the conclusion of the hearing, the Council Member accused of an ethical violation, and the complainant shall be excused from the executive session so the Tribal Council may review the evidence and consider a decision and sanction, if any.
- (B) The Tribal Council shall decide in open Tribal Council session, by recorded vote, whether an ethical violation under this ordinance has occurred. Said decision shall be made by a majority vote. If the Tribal Council decides that an ethical violation has occurred, the Tribal Council shall then decide, by motion, an appropriate sanction, if any, to impose on the Council Member who engaged in unethical conduct.
- (C) The Council Member against whom an allegation of unethical or improper conduct is made shall not participate in the review of the allegation by the Council, consideration by the Tribal Council of whether unethical conduct occurred and appropriate sanction for such conduct, or voting in open session on whether an ethical violation occurred and on an appropriate sanction.

**Section 80 Limited Waiver of Individual Immunity (2 PYTC § 1-2-80)**

The absolute immunity of individual Tribal Council members alleged to have violated this Chapter is waived to the extent that the Pascua Yaqui Tribe can pursue action to recoup any losses it may have incurred in connection with, or as a result of, unethical or improper conduct. This provision in no way waives the sovereign immunity of the Pascua Yaqui Tribe.

**Section 90 Sanctions (2 PYTC § 1-2-90)**

The Tribal Council may impose a sanction or sanctions against any Council member who is found to have engaged in unethical conduct under this ordinance. 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 Tribal Council;
- (B) Restitution or fine;
- (C) Suspension without pay provided that the suspension shall not exceed three months for any specific violation;
- (D) expulsion or removal, provided that eight Council Members, a 2/3 majority of Tribal Council, have voted for this sanction, pursuant to Constitution, Article X, Section 1.

**Section 100 Appeals (2 PYTC § 1-2-100)**

- (A) Any Council Member who is found to have violated this ordinance and against whom sanctions have been imposed by the Council shall have the right to appeal such determination to the Pascua Yaqui Tribal Court of Appeals.

(B) The Court of Appeals is hereby granted jurisdiction to hear appeals of the issuance of such sanctions by the Tribal Council, provided, however, that the Tribal Court's jurisdiction in such matters is limited to a determination of whether or not the action taken by the Council was arbitrary and capricious, or in violation of the Tribe's Constitution or of the Indian Civil Rights Act.

(1) The appeal must be filed within 30 days of the Council's determination.

(2) The evidentiary findings of the Council shall be accepted by the Court as final, unless such findings are arbitrary and capricious.

**Section 110 Severability (2 PYTC § 1-2-110)**

If any provision of this Chapter is found to be invalid under applicable law, that provision shall be severed from this ordinance and the remainder of the Chapter shall remain in full force and effect.