

**TITLE 8- REGULATORY CODE
PART VII- RESEARCH
CHAPTER 7-1- RESEARCH PROTECTION**

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Legislative History *Established on May 14, 2008 by Resolution No. C05-104-08 and Ordinance No. 18-08.*

SUBCHAPTER A GENERAL PROVISIONS

Section 10 Short Title; Codification (8 PYTC § 7-1-10)

- (A) This ordinance shall be known as the “Research Protection Ordinance of 2008.”
- (B) This ordinance shall be codified in Title 8, Chapter 7-1.

Section 20 Findings and Policy (8 PYTC § 7-1-20)

This Ordinance shall establish a research review process as a mechanism to improve relations between the Tribe and scientists/researchers, and to promote collaboration within the framework of mutual respect, equity, and empowerment, and to identify benefits and risks to the Tribal community.

Section 30 Purpose (8 PYTC § 7-1-30)

- (A) The purposes of this Ordinance are to:
 - (1) Protect the people, culture and natural resources of the Tribe and the Tribe's future generations from unauthorized research; and
 - (2) To reduce the adverse effects of research and related activities on the Tribal community; and
 - (3) To ensure that researchers recognize Tribal control of research activities and that the Tribe owns all data and information generated or produced by such research; and
 - (4) To ensure tribal participation in the research, development, implementation, analysis and dissemination, and
 - (5) To establish and provide a statutory basis for a process to review and govern any research, collection, data management, or publication undertaken on the Reservation or with tribal members.

Section 40 Definitions (8 PYTC § 7-1-40)

- (A) For purposes of this Ordinance:
 - (1) "Academic Research" means research carried out to obtain educational qualifications or as part of their academic career at a university or affiliated institutions.
 - (2) "Biodiversity" means the total variety of life in all its forms. It includes many levels that range from the level of alleles to the biosphere. The major elements of biodiversity include alleles, genes, populations, species, ecosystems, landscapes, and the ecological processes of which they are a part.
 - (3) "Biogenetic Resources" means biological and genetic resources, including plant material, animals, microorganisms, cells, and genes.

- (4) "Biological Samples" means, but is not limited to: bacteria and other microorganisms, bacteria, plant, animal, or any human biological materials, genetic samples, any copies of the original genetic samples, any cell lines containing copies of the original genetic samples, and data derived from these samples.
- (5) "Commercial Purposes" means to sell, purchase, barter, trade, delayed compensation for profit, exchange, transport, or offer to sell, purchase, barter, trade, delay compensation for profit, exchange, or transport.
- (6) "Cultural Research" means any endeavor, by means of critical investigation and study of a subject, to discover new or collate old facts or hypotheses on a cultural subject, the latter being defined as any ethnographic or anthropological study, including basic data collection, studies of or incorporating traditional knowledge or classifications systems (e.g. studies of medicinal properties of plants), documentary films, archaeology, linguistics and ethno-historical accounts.
- (7) "Indigenous" means native, originating or growing naturally in a specific landscape. Also refers to people descending from the original inhabitants of the Western Hemisphere who have maintained distinct languages, culture, or religion from time immemorial.
- (8) "Products of Research" means publications including but not limited to reports, studies, articles, theses, books, manuscripts, sound recordings, film and video, media interviews, computer databases, field notes, illustrations, photographs, sound recordings, collected material artifacts, replicas, and specimens, including any derivative forms they may take such as translations, and communications through the electronic media, including the internet and world wide web.
- (9) "Research" includes identification, description, classification, collection, compilation, recordation, analysis, and publication in fields including, but not limited to: agronomy, archaeology, astronomy, biology, ethnobotany, ecology, ethnography, history, linguistics, paleontology, medicine, photography, psychology, remote sensing, sociology, theology, videography, and other investigative disciplines or approaches as identified by the Tribe.
- (10) "Reservation" means all lands within the exterior boundaries of the Pascua Yaqui Reservation which are under the jurisdiction of the Tribe, and such lands as may hereafter be obtained or added to the jurisdiction of the Tribe.
- (11) "RRC" means the Research Review Committee established under this Ordinance.
- (12) "Taboo/Sacred" means a subject to which access is restricted to any degree. Such subjects can include places, names, knowledge, oral traditions, objects, and practices.
- (13) "Traditional Indigenous Intellectual Property" means the indigenous cultural information, knowledge, uses, and practices unique to the Tribe's ways of life maintained and established over tribal homelands and aboriginal areas since time immemorial. This knowledge is based upon millennia of observation, habitation, and experience, and is a communal right held by the Tribe and in some instances by individuals. This property includes, but is not limited to, the following:
 - (a) Knowledge of remembered histories and traditions;
 - (b) Details of cultural landscapes and particularly sites of cultural significance;
 - (c) Records of contemporary events of historical and cultural significance;
 - (d) Sacred property (images, sounds, knowledge, material, culture or anything that is deemed sacred by the community);

- (e) Knowledge of current use, previous use, and/or potential use of plant and animal species, soils, minerals, objects;
 - (f) Knowledge of preparation, processing, or storage of useful species;
 - (g) Knowledge of formulations involving more than one ingredient;
 - (h) Knowledge of individual species (planting methods, care for, selection criteria, etc.);
 - (i) Knowledge of ecosystem conservation (methods of protecting or preserving a resource);
 - (j) Biogenetic resources that originate (or originated) on indigenous lands and territories;
 - (k) Tissues, cells, biogenetic molecules including DNA, RNA, and proteins, and all other substances originating in the bodies of Tribal members, in addition to genetic and other information derived therefrom;
 - (l) Cultural property (images, sounds, crafts, art, symbols, motifs, names, performances); and
 - (m) Knowledge of systems of taxonomy of plants, animals, and insects.
 - (n) Knowledge of the Hiaki language.
- (14) "Traditional Knowledge Right" means the traditional right of individuals to control the ways the information they provide is used and accessed. The issue of traditional knowledge rights arises when individuals either own or are the custodians of specialized (or usually taboo/sacred) knowledge and its communication. This knowledge can include names, ceremonies, designs or forms, oral traditions, practices and skills.
- (15) "Tribal Member" means an individual Indian who is enrolled in the Pascua Yaqui Tribe.
- (16) "Tribe" means the Pascua Yaqui Tribe.

Section 50 Research Review Committee Established (8 PYTC § 7-1-50)

- (A) There is hereby established a Research Review Committee, which shall be comprised of:
- (1) The Director of the sponsoring Division;
 - (2) A cultural preservation office representative;
 - (3) A community member;
 - (4) A tribal elder;
 - (5) A specialist in the area of research within the Tribe.
- (B) The community member and the tribal elder shall be appointed to serve on this committee by the Chair of the Tribal Council.
- (C) The Research Review Committee shall have the following duties and responsibilities:
- (1) To examine and comment on all proposals for research to be conducted within the Reservation.

- (2) To develop and propose to the Tribal Council rules under which the Research Review Committee shall operate.
- (3) To coordinate and insure that affected Tribal programs', departments', and members' interests are protected and represented.
- (4) Submit recommendations regarding proposals to the Tribal Council for final approval.
- (5) Coordinate and interact with the researcher(s) in order to ensure Tribal control of the research process and Tribal ownership of data and information generated by such research.
- (6) Negotiate the terms and conditions of a research agreement, and submit such agreement for execution by the Tribal Council.

Section 60 Guiding Principles for Research Review Committee (8 PYTC § 7-1-60)

(A) The Research Review Committee, in examining proposals, shall be guided by the following principles:

- (1) Fully Informed Consent after Full Disclosure and Consultation. Research should not be conducted until there has been full consultation with all potentially affected Tribal communities and individuals, and each such community and individual has approved the research after full disclosure. Full disclosure shall consist of:
 - (a) The full range of potential benefits and harms of the research;
 - (b) All relevant affiliations of the person(s) or organization(s) seeking to undertake the research;
 - (c) All sponsors of the researcher(s);
- (2) Principle of Immediate Risks and Benefits to the Tribal Community. The research should be of immediate benefit to the Tribal community, and the risks associated with the research should be less significant than the benefits to be gained.
- (3) Principle of Confidentiality. This principle recognizes that the Tribe and local communities, at their sole discretion, have the right to exclude from publication and/or to have kept confidential any information concerning their culture, traditions, mythologies, or spiritual beliefs. Furthermore, researchers and other potential users shall guarantee such privacy and confidentiality.
- (4) Respect. This principle recognizes the necessity for researchers to respect the integrity, morality, and spirituality of the culture, traditions, and relationships of Tribal members with the world, and to avoid the imposition of external conceptions and standards.
- (5) Communication. This principle recognizes that communications should be carried out in the local language, using translators as necessary.
- (6) Empowerment. This principle recognizes that empowerment is the sharing of power and is premised on mutual respect. Empowerment means that each affected party feels that their needs are being met through a fair and equitable manner. Empowerment also means that research authorship must be shared between the Tribal community and the researcher.
- (7) Equity. This principle recognizes that equity is a sharing of resources. Both the researchers and the Tribe must bring equity to any research contract, agreement or understanding. Each of the participants in a good research agreement must evaluate such equity in relation to the research. Finance or money is only one form of equity. Community knowledge, networks, personnel and political or social power are other forms of equity useful to the project. Each of these commodities has value and must be shared between the researchers and the Tribe if a good agreement is to be

formulated. The parties must continuously review equity over the duration of a research agreement.

- (8) **Mutual Respect.** This principle recognizes that in order to develop a good research agreement, the researchers and the Tribe must generate respect for each other. Respect is generated by understanding the social, political and cultural structures of the other party. The researchers and the Tribes can not assume that they believe in the same things or share the same goals and expectations. Good communication is required if a proper research agreement is to be generated. Cultural sensitivity training for the researchers and Tribal awareness presentations will help develop a mutual understanding in conducting the research project. Definitions and assumptions must be clarified and questioned by each side and set forth in an agreement. The Tribes and the researchers must listen to each other with open minds.
- (9) **Prior Rights.** This principle recognizes that indigenous peoples, traditional societies, and local communities have prior, proprietary rights and interests over all air, land, and waterways, and the natural resources within them that these peoples have traditionally inhabited or used, together with all knowledge and intellectual property and traditional resource rights associated with such resources and their use.
- (10) **Self-Determination.** This principle recognizes that indigenous peoples, traditional societies and local communities have a right to self determination and that researchers and associated organizations will acknowledge and respect such rights in their dealings with these peoples and their communities.
- (11) **Inalienability.** This principle recognizes the inalienable rights of indigenous peoples in relation to their traditional territories and the natural resources within them and associated traditional knowledge. These rights are collective by nature but can include individual rights. It shall be for indigenous peoples to determine for themselves the nature and scope of their resource rights regimes.
- (12) **Traditional Guardianship.** This principle recognizes the holistic interconnectedness of humanity with the ecosystems of our Sacred Earth and the obligation and responsibility of indigenous peoples to preserve and maintain their role as traditional guardians of these ecosystems through the maintenance of their cultures, mythologies, spiritual beliefs and customary practices.

Section 70 General Requirements (8 PYTC § 7-1-70)

- (A) In order to conduct research on the Pascua Yaqui reservation, applicants must:
 - (1) Submit a Research Proposal to the Research Review Committee,
 - (2) Execute a Research Agreement with the Tribe,
 - (3) Obtain a Research permit as required by Section 140; and
 - (4) Receive Tribal Council approval of the Research Proposal.

Section 80 Research Proposal Requirements (8PYTC § 7-1-80)

- (A) The Research Review Committee shall develop standard application forms for Research Proposals and set forth the type of information that must be submitted.
- (B) Research Proposals must include a short (a maximum five pages) single sided synopsis of the project.
- (C) The following information must be included in any Research Proposal:

- (1) Statement of the Issue/Problem/Research Question. The applicant shall briefly describe the issue/problem the applicant is addressing by the proposed research. Specific questions related to this issue/problem and the theoretical rationale behind the questions shall be set forth. If the applicant has a specific hypothesis, the applicant shall briefly set forth such hypotheses.
- (2) Intent/Benefit to the Tribe. The applicant must clearly outline and discuss the intent of the research project and the benefit(s) that the project, research or activity will have to the Tribal community. Some questions to be answered are: (1) what are the anticipated consequences or results/outcomes of the project; (2) what groups will be affected and what groups will benefit; and (3) in what ways will these groups and the Tribe benefit?
- (3) Method. The applicant shall briefly describe:
 - (a) The procedure for the recruitment of participants;
 - (b) The procedures to be used to obtain the consent of the participants;
 - (c) The subjects, settings, study procedure and the nature of the data to be collected.
- (4) Confidentiality. The applicant shall:
 - (a) Identify the circumstances under which the obligations of the applicant may constitute a breach of confidentiality.
 - (b) Describe how individual participants will be informed of the degree of confidentiality that will be maintained throughout the study.
 - (c) Disclose whether the Tribal community will be identified in any data released to the general public.
 - (d) The Tribe maintains that unless otherwise specified, only aggregate data, not individual data, shall be published or released to the general public. All individual identifiers such as names, addresses and phone numbers must be kept confidential and no sale or transfer of databases outside the specific research project shall be allowed.
- (5) Disposition of Data and Samples. The applicant shall describe:
 - (a) How individual participants will be informed of how data and samples will be used.
 - (b) What the applicant plans to do with the information and samples that are collected.
 - (c) The plans to provide individual participants with their own personal results
 - (d) The frequency and manner by which the aggregate data and progress reports will be shared with the RRC.
 - (e) Communication strategies to present aggregate data to the community at large.
- (6) Risks. The applicant shall:
 - (a) Describe any potential legal, financial, social, physical or psychological risks that are anticipated in the research.
 - (b) Assess any risks of deleterious impact on the cultural, social, economic or political well-being of the Tribe or Tribal members. The assessment of risk will also address the steps

that will be taken to minimize, ameliorate or repair any actual harm caused to the Tribal community by the research.

- (c) Describe how potential risks will be explained to participants and how the risks are justified by the potential benefits of the research.
- (7) **Funding/Budget.** If the study is funded by any public or private sources, the applicant shall provide a full reference of this funding source and explanation of any limits on the confidentiality of research results. If the applicant is currently seeking funding, the applicant shall list all funding agencies for which proposals are being sought.
- (8) **Equity.** The applicant must demonstrate how the participants and the Tribe will be given a fair and appropriate return for cooperation in the research. Just compensation or fair return includes, but is not limited to:
 - (a) Obtaining copies of the research findings;
 - (b) Authorship, co-authorship or acknowledgment;
 - (c) Royalties, fair monetary compensation,
 - (d) Copyright, patent, trademark,
 - (e) Compensation for expenses incurred in reviewing/advising researchers,
 - (f) Coverage of training/education or outreach expenses or other forms of compensation.
- (9) **Consent.** The applicant must describe the mechanisms they will use to obtain informed consent, which may be required from individual participants and/or the Tribal Government. The applicant shall list all the agencies, professionals, government representatives or individuals within the Tribal community with which the applicant has previously discussed the proposed research and whether or not these people have given their informed consent, or other support, to the research.
- (10) **Empowerment.** The applicant shall describe how individuals and Tribal members will be empowered by the research process through employment, training or outreach efforts.
- (11) **Intellectual Property Rights.** The application shall address the plans (pre, during and post-project) for publication or commercial use of the research findings. If such publication or commercialization is contemplated, the applicant shall address how the Tribal community shall share in the authorship of publications or commercialization of the research findings. The Tribe also needs to know how the Tribal community will have access to the project, research data or findings for the Tribe's own use.
- (12) If applicable, a copy of the IRB human rights subjects approval application and approval letter shall be submitted to the RRC.

(D) **Administrative Fee:**

The applicant shall remit with the research proposal an administrative fee in the amount of \$50.00 to cover administrative costs associated with review of the proposal and permitting.

Section 90 Review of Research Proposals and Review Process (8 PYTC § 7-1-90)

- (A) Research proposals must be submitted to the Research Review Committee at least 45 days prior to the anticipated project start date.

- (B) All research proposals must be complete before the RRC will consider the proposal. A proposal is complete when it contains the fee and all of the information required in Section 80 that is necessary for the RRC to decide whether or not the proposal should be approved.
- (C) The Research Review Committee shall review the application materials that are submitted and may:
 - (1) Return the proposal to the applicant with requests for additional information or with suggestions for clarification or change;
 - (2) Consult with other Tribal members, Tribal elders, professionals, technical experts or specialists for a second evaluation before sending recommendations to the Tribal Council;
 - (3) Request the researcher to attend a hearing to review the proposal;
 - (4) Forward the proposal and request to the Tribal Council with a recommendation for approval or disapproval.

Section 100 Recommendations Prepared by Research Review Committee; Notice to Applicant (8 PYTC §7-1-100)

- (A) The Research Review Committee shall prepare a recommendation regarding each research proposal specifying whether the research applicant was determined eligible to conduct research by the Research Review Committee.
- (B) The Research Review Committee shall present the recommendation to the Tribal Council in the form of proposed resolutions and shall make available to the Tribal Council all application files.
- (C) Notice of the Research Review Committee's decision shall be given to the applicant within three working days of the date of the decision. The notice shall be on a form approved by the Tribal Council and shall state, at minimum, the decision of the RRC, the basis for the decision, the fact that the Tribal Council makes the final determination of eligibility.

Section 110 Tribal Council Approval (8 PYTC §7-1-110)

- (A) The Tribal Council shall have final approval authority regarding research proposals.
- (B) The Tribal Council shall review and consider the proposed resolutions and research proposal that was reviewed by the RRC. The Tribal Council shall approve or disapprove a research proposal by acting upon the proposed resolutions presented by the RRC.
- (C) Following approval of the research, the researcher shall secure all permits and licenses that may be required by Tribal law, including but not limited to a permit as provided under Section 140.

Section 120 Notice to Applicant (8 PYTC § 7-1-120)

- (A) Each applicant approved to conduct research by the Tribal Council shall be given written notice, on a form to be approved by the Tribal Council, indicating such approval, along with the resolution number and date of adoption.
- (B) Upon determination by the Tribal Council that an applicant is not eligible to conduct research, the applicant shall be given written notice on a form to be approved by the Tribal Council that they failed to meet the requirements for conducting research on the Tribe.

Section 130 Research Agreements (8 PYTC § 7-1-130)

- (A) An agreement specific to the research shall be developed so that studies proceed in a manner that is both culturally sensitive and relevant to the participants and the Tribal community.
- (B) Where any of the products of the research are to be used for commercial purposes, a separate agreement will be made specifying the bases on which sales are to be made and the proceeds of sales are to be distributed. Where research is engaged in for commercial purposes, it is the responsibility of the researcher to make all informants and suppliers of information aware of this fact, and to come to an agreement with them on the amount of compensation to be paid. There must be a limit on samples that the researcher may obtain and take off the Reservation, and the approved list and amount of samples to be taken must be followed strictly.
- (C) A sworn notarized declaration of noncommercial use of research products and/or traditional and indigenous knowledge is required in conjunction with an Academic Research Agreement. This declaration may be included in the body of the Research Agreement.
- (D) If a research project receives approval by the Tribe, the approval remains in effect for the period of time specified in the research agreement unless substantial changes are made in the research protocol. At the end of the period approved for the research project, the applicant must submit a letter in writing which summarizes the status of the project (complete, incomplete, discontinued), any unanticipated problems that occurred during the data collection phase of the project, and a time schedule for completion of all work, including community education/outreach, related to the project. If the project is incomplete, the applicant must also request in writing an additional period for the data collection phase of the project.
- (E) Upon execution of a Research Agreement, the applicant shall obtain from the Office of the Tribal Secretary a Research Permit in accordance with the terms of Section 140.

Section 140 Permits (8 PYTC § 7-1-140)

- (A) The Research Review Committee shall develop standard application forms for research permit applicants and set forth the type of information that must be submitted.
- (B) The RRC shall develop a standard permit form, which at a minimum shall include the name(s) of the researcher(s) covered, name and/or brief description of the study approved, location(s) of research to be conducted, and effective start and ending dates of the permit.
- (C) An application form for a Research Permit may be obtained from the RRC or from the Office of the Tribal Secretary.
- (D) All persons covered by a Research Permit shall have such Permit in their possession at all times while conducting research. The Research Permit must be produced for inspection or surrendered upon demand by authorized Tribal authorities.
- (E) A Research Permit issued under this Section may be suspended or revoked at any time by the Tribal Chairperson, responsible Division Head, or the RRC, if a permit holder is engaged in activities not allowed by the permit, fails to abide by a permit term or condition, has committed fraud or misrepresentation or provided incorrect statements in the application or permitting process, or is engaged in or has engaged in activities prohibited by this Ordinance or any other Tribal law or resolution.
- (F) A revocation or suspension of a permit issued pursuant to this Section is final and not subject to appeal.

Section 150 Completion of Review Process (8 PYTC §7-1-150)

- (A) The review process and approval of the research is complete when the applicant receives a letter of notification from the RRC and enters into a binding Research Agreement (see Appendix) with the Tribe that contains the obligations and responsibilities of the parties. Upon approval, principal investigators, researchers, graduate students and any others involved in the research shall undergo cultural sensitivity training at the researcher's expense before any project begins within the Reservation or with tribal members.
- (B) The RRC may specify a Compliance Fee in an amount appropriate to ensure the applicant's compliance with the conditions of the research. Upon completion of the research, the compliance fee may be refundable.

Section 160 Modifications of an Approved Project (8 PYTC § 7-1-160)

- (A) If the applicant wishes to make substantial changes in his or her research project after receiving approval from the Tribe, he or she must submit a summary of the proposed modifications to the RRC.
- (B) Modifications in the data collection procedures must be reviewed by the RRC and approved by the Tribal Tribal Council. Modifications to the research project shall not be implemented until the researcher and the RRC have amended the research agreement and permits, and the researcher receives written approval from the RRC.

Section 170 Regulation of Biological Samples (8 PYTC § 7-1-170)

- (A) Any researcher who seeks to collect, acquire, or analyze any biological samples must agree and abide by the following conditions with regard to research with biological materials.
 - (1) The Tribe may, at any time, decide to withdraw from the research project or any portion thereof, and request the return of all biological samples. The researcher, and any other parties, must comply.
 - (2) Upon completion of the research project, or termination or cancellation of the project at any time prior to completion, the biological samples must be completely and fully returned to the possession of the Tribe.
 - (3) No biological samples from this study may be released to, or used by, any other researcher(s), research institution, or any other entity, whether public or private, without the prior and fully-informed written approval of the Tribe.
 - (4) If the Tribe permits any biological samples to be stored in any other locations, the researcher shall maintain at all times a complete list thereof. The list shall include a description of the sample or data, source, specific use or purpose of each item, responsible person(s) at the location, and where the item is housed (e.g., in a "gene bank" or on a specific computer), and any relevant time lines with regard to use of, disposition, return, or destruction of the samples or data. The researcher shall provide an updated copy of the list to the Tribe whenever changes are made. The updated list shall include identification of changes made since the last copy of the list was provided to the Tribe.
 - (5) Any situation where biological samples will leave the possession or control of the researcher will require a separate agreement between the Tribe and the external party in accordance with this Ordinance.
 - (6) No entity may seek to patent or commercialize any biological materials obtained from the Tribe or tribal members, from the Tribe's jurisdiction, or under the authority of the Tribe. This includes

genetic samples, any copies of the original genetic samples, any cell lines containing copies of the original genetic samples, and data derived from these samples.

Section 180 Reservations and Termination (8 PYTC § 7-1-180)

- (A) The Tribe reserves the right to:
 - (1) Withdraw consent to use or release information and/or prevent the publication of data which is unauthorized, insensitive, misrepresents or stereotypes Tribal people or will harm the health, safety or welfare of the Tribe or the Tribal environment.
 - (2) Deny researchers the opportunity to conduct research in any Tribal community within Tribal jurisdiction. In addition, other researchers or scientists from the same research institution may be denied any future access to the Reservation.
 - (3) Withdraw approval for projects. Should this occur, the Tribe will explain the rationale for withdrawing approval and explain why this project or the release of data is deemed to be harmful to individuals or the Tribal community at large. In the case of withdrawal of approval by the Tribe, all information and copies of data must be returned to the Tribe.
 - (4) Exclude individuals from the Reservation
 - (5) Seek injunctive relief, including an order restraining a person from continuing to enter onto the Reservation.
- (B) If a project is terminated, the research entity or individual must provide just compensation to any field staff or member of the Tribe for their time and efforts spent related to the research project.
- (C) This ordinance does not apply to Tribal members or communities conducting research within their own community for their own use, provided, however, that this ordinance shall apply if a Tribal member is conducting research for, or is affiliated with, an outside institution.

Section 190 Publications (8 PYTC §7-1-190)

- (A) All publications produced as a result of an approved research project shall be reviewed and approved by Tribal Council resolution.
- (B) The Tribal Council shall develop standards for approving publications.
- (C) Tribal Council decisions are final.

SUBCHAPTER B ENFORCEMENT; REMEDIES

Section 200 Prohibited Conduct (8 PYTC § 7-1-200)

- (A) No person shall conduct any research without first obtaining approval by the RRC.
- (B) No person shall conduct any research without obtaining a fully executed research agreement with the Tribe.
- (C) No person shall conduct any research without maintaining in their possession a permit issued by the Tribe.
- (D) No person shall collect, acquire, or analyze any biological samples without abiding by the provisions of this Ordinance.

- (E) No person shall alter, damage, disturb, excavate, removed, or desecrate any biodiversity related resources, biogenetic resources, or traditional indigenous intellectual property on or of the Reservation or Tribe;
- (F) No person shall, while on the Reservation, conduct any visitation, inventory, collection, research, or filming related to any biodiversity related resources, biogenetic resources, or traditional indigenous intellectual property, or disturb any animals, vegetation, or landscapes of the Reservation or Tribe;
- (G) No person shall sell, purchase, exchange, transport, receive, or offer to sell, purchase, exchange, transport, or possess any biodiversity related resources, biogenetic resources, biological samples, or traditional indigenous intellectual property if such resource or property was obtained in violation of this Ordinance or any permits.

Section 210 Penalties (8 PYTC § 7-1-210)

(A) Criminal Penalties

- (1) Any person who violates any section of this ordinance, or any condition of limitation of a permit issued under this ordinance, shall be guilty of a criminal offense punishable by restitution, community service, a fine not to exceed \$5,000.00, imprisonment for not more than 1 year, or any combination of these penalties.

(B) Civil Penalties

- (1) Any person who violates any section of this Ordinance, or any permit issued under this Ordinance, shall be assessed a civil penalty not to exceed \$5,000.00 per violation, or if applicable, any civil penalty provided for under Federal laws.
- (2) No civil penalty shall be assessed unless such person is given notice and an opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. The trial of any such violation shall be by the Tribal Court and the prosecution shall have the burden of proving the alleged violation by a preponderance of the evidence.
- (3) Any person who violates this ordinance, or any permit issued under this ordinance, may lose the privilege of doing business or conducting research on the Pascua Yaqui Reservation or with the Tribe.
- (4) Any nonmember of the Tribe who violates this ordinance or any permit issued under this ordinance may be excluded from the Reservation.

(C) Civil Damages

- (1) Assessment of Actual Damages: Any person who violates any section of this Ordinance or any permit issue under this Ordinance shall be liable to the Tribe for civil damages to be assessed by the Pascua Yaqui Tribal Court after a hearing. "Civil Damages" shall be interpreted liberally by the Pascua Yaqui Tribal Court to include, but not be limited to, the following:
 - (a) Cost of restoration and repair; and
 - (b) Enforcement costs associated with the enforcement of this Ordinance; and
 - (c) Costs associated with the culturally appropriate disposition of resources, including conservation, curation, and/or reburial.
- (2) Assessment of Treble Damages: In addition to actual damages, the Pascua Yaqui Tribal Court, in its discretion, may assess damages of up to three times the amount of actual damages.

(D) Forfeiture

- (1) All objects or property in the possession of any person, and obtained in violation of this Ordinance or in violation of a term or condition of a permit obtained thereunder, shall be seized by law enforcement agents and forfeited to the Tribe for disposition.
- (2) A person may recover all such property incapacitated by paying to the Tribe the costs incurred by the Tribe in carrying out legal proceedings, and by paying all fines due for violations of Tribal law.

Section 220 Enforcement (8 PYTC § 7-1-220)

The Office of the Attorney General shall have the authority to enforce this Ordinance.

SUBCHAPTER C MISCELLANEOUS

Section 230 Severability (8 PYTC § 7-1-230)

If any provision of this ordinance or the application thereof to any person, court, or circumstance is held invalid by a Tribal Court the invalidity shall not affect other provisions of this ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this ordinance are severable.

Section 240 Repeal of Conflicting Laws or Regulations (8 PYTC § 7-1-240)

Any ordinance, resolution, act, or rules and regulations in conflict with the provisions of this Ordinance shall be superseded and repealed to the extent of such conflict.

Section 250 Waiver (8 PYTC § 7-1-250)

No individual person, Tribal official, or Tribal employee is authorized to waive any part of this Ordinance.”