

**KENAITZE INDIAN TRIBE  
TRIBAL RECORDS ORDINANCE  
ADOPTED JUNE 29, 2016**

**Section 1: Purpose, Authority and Mandate**

The Kenaitze Indian Tribe's ("Tribe") Constitution, Art. XII, Sec. 4, provides that tribal members shall have the right to review all tribal records, except as limited by ordinance. The Tribal Council ("Council") wishes to provide the fullest access possible to tribal records and information, so that tribal members may remain informed regarding the operation of the Tribe. The Council must weigh this goal against protecting the privacy interests of individuals and the proprietary and legal interests and obligations of the Tribe.

**Section 2: Public Records**

Except as provided by Section 3 of this Ordinance, or by other provisions of applicable law, the Tribe shall make all Public Records open to inspection by any tribal member subject to guidelines regulating the time, place, and manner of inspection which may be adopted by the Executive Director. Access by persons who are not tribal members shall be at the sole discretion of the Council. Public Records open to inspection are the following:

1. Council meetings and minutes, with the exception of minutes taken during executive session;
2. Motions, including motions to enter executive session and any motions resulting from executive sessions;
3. Resolutions, ordinances, codes, amendments, and policies and procedures adopted by Council;
4. Tribal Court information in accordance with Tribal law that is not protected under Section 3 of this Ordinance;
5. Voter lists with addresses (if the individual has not opted to have their address remain private); such release may only be made to tribal members running for Tribal Council or for purposes of a recall election or ballot initiative; *provided* that any member who receives such list shall not duplicate the list, re-disclose the list to any other person or entity or use the list for any purpose other than those specified herein; and shall destroy the list once it is used for the intended purpose;
6. Election candidate lists and voting results;
7. Financial and operational cost information, including information as to revenues, expenditures, and indebtedness; annual financial audits; and all financial disclosures that have been declared open to Tribal members by the Council;

8. Publicly filed organizing documents of any Kenaitze Indian Tribe entity;
9. Statistical information and analyses concerning caseloads, numbers and categories of persons for whom services were performed or treatment provided, and results achieved, *provided* such information does not contain any personal identifiable information;
10. Organizational charts, employee job titles, job postings, and salary ranges for Tribal positions; and
11. Salary and benefits received by elected or appointed officials of the Tribe.

### **Section 3. Protected Records**

The following records are private or otherwise protected and shall not be considered public for purposes of required disclosure:

1. Records pertaining to individual employees, tribal members or clients, including personnel, medical, housing assistance applications or files, and other similar information that, if disclosed, would constitute an invasion of personal privacy, unless the disclosure is consented to in writing by the individual subject of the information;
2. Information specifically protected from disclosure by Tribal, State, or federal law;
3. Information that would reveal the location of archeological or culturally significant sites;
4. Trade secrets and commercial or financial information which, if released, would compromise the economic viability of the Tribe or the competitive position of tribal business;
5. Information that is part of negotiations in a proposed land purchase by the Tribe until that purchase is completed;
6. Ongoing negotiations and pending bids to enter into contracts;
7. Information provided by a third party that is submitted to the Tribe upon a promise of confidentiality by the Tribe pursuant to any contractual obligation;
8. Contracts entered into with the Tribe where a term of the contract dictates that the contract remain confidential;
9. Information that is protected by attorney-client privilege, the attorney work product doctrine or compiled in reasonable anticipation of a civil action or court proceeding;
10. Enrollment records of the Tribe, except to the extent disclosure is authorized by the Constitution or a duly-adopted Enrollment Ordinance;

11. Internal communications or notes whether by memorandum, letters, text messages, emails, or other medium, which relate solely to the internal personnel and business practices of the Tribe;
12. Internal investigative records, created or maintained by any Department or entity of the Tribe, that is not released publically; or
13. Records relating to any child custody case in the Kenaitze Indian Tribal Court or records that have been otherwise sealed by the Court.

#### **Section 4. Access to Records**

- A. Access to Protected Records listed under Section 3 of this Ordinance shall be permitted under any of the following conditions:
  1. Access by an individual to his/her own record, *provided* that the records may be withheld if the release of such records could harm to the Tribe or an individual, are attorney-client privilege, attorney work-product, internal investigative records, internal communication, or restricted by law or contract;
  2. Internal sharing within departments of the Tribe for business purposes, to the extent permitted by law;
  3. Routine uses, including recruitment for Tribal educational programs and social services;
  4. Statistical uses if records are transferred in a form that is not individually identifiable;
  5. Transfers of originals or copies to archives for archival purposes;
  6. In compelling circumstances affecting an imminent threat of harm to the health and safety of an individual, *provided* that the records can be used to prevent the harm; or
  7. Pursuant to an order of the Kenaitze Tribal Court or other Court of competent jurisdiction.
- B. Tribal Public Records listed under Section 2 of this Ordinance shall be made available for inspection by Kenaitze tribal members under the procedure described here, and additional procedures established by the Executive Director.

1. **Requests**

Any request to access records must be made in writing. The Executive Director or the Director's designee shall respond to each request within a reasonable time, indicating one of the following:

- a) The request is approved and either provide a time and place that the records will be made available or a method of scheduling an appointment for inspection;
- b) The request is approved and copies of all requested records are enclosed with the response;
- c) The request has been received and records shall be provided on a partial or installment basis as the records are identified, located, assembled, or made ready for inspection or copying; or
- d) The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record, stating the specific exemptions prohibiting disclosure and a brief explanation of how the exemption applies to each withheld or redacted record.

## **2. Appeals**

A requester may file a written appeal to the Executive Director clearly identifying what records are being sought within five (5) business days after a request has been denied. The Executive Director shall respond within a reasonable time, in writing to any appeal.

## **3. Fees**

No fees shall be charged for inspection of records. The Tribe may impose a fee for the cost of making or delivering copies of records. Tribal staff may require fees to be paid, in whole or in part, prior to providing copies of records.

## **Section 5. Records Management**

The Executive Director is hereby authorized to and shall establish and administer a Records Management Program for tribal records, pursuant to legal, fiscal, administrative, and archival requirements. The Director or an appointed or delegated designee shall establish procedures and schedules for records control, including conditions for retention, copying, protection, and destruction.

## **Section 6. Sovereign Immunity**

Nothing in this Ordinance shall be construed as waiving the sovereign immunity of the Tribe. This Ordinance is not intended to, nor does it, create a private right of action.

**CERTIFICATION**

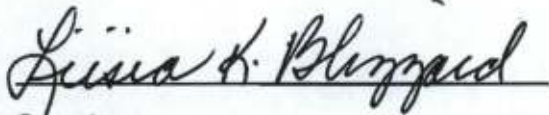
Voting in Favor: \_\_\_\_

Voting Against: \_\_\_\_

Abstaining: \_\_\_\_

A handwritten signature in black ink, appearing to read "Rosalie A. Depp", written over a horizontal line.

Chairperson

A handwritten signature in black ink, appearing to read "Lissa K. Bluyard", written over a horizontal line.

Secretary