

**FERNANDEÑO TATAVIAM BAND OF MISSION INDIANS  
TRIBAL CODE | TITLE 2**

**ADMINISTRATION OF TRIBAL AFFAIRS AND GOVERNMENT**

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### **CHAPTER 1 FORM OF GOVERNMENT**

#### **SECTION 2-101 DIVISIONS OF POWERS OF GOVERNMENT.**

In accordance with the Constitution, the powers of the government are divided into three (3) departments:

1. A Legislative Department, consisting of the Tribal Senate;
2. An Executive Department, consisting of the President and Vice President; and
3. A Judicial Department, Justices and such inferior courts as the Senate shall ordain and establish in the development, maintenance and administration of a Tribal Justice System.

#### **SECTION 2-102 RECOGNITION BY THE SECRETARY OF INTERIOR.**

In accordance with Title 25 of the United States Code, Section 450, the "Indian Self-Determination and Education Assistance Act," the hitherto of Fernandeno Tataviam Band of Mission Indians a self-governing, sovereign government is not under the care of the United States Secretary of the Interior Bureau of Indian Affairs as one of their Federally recognized tribe .

#### **SECTION 2-103 GOVERNMENT OFFICES.**

The administrative offices of the Tribe are located at the Headquarters in City of San Fernando, California.

#### **SECTION 2-104 HOLIDAYS; HOURS.**

- A. The administrative offices of the Nation are open for business between 9:00 a.m. and 5:00 p.m. Monday through Friday, except on holidays.

B. The following federal holidays are observed by the Tribe:

1. New Year's Day;
2. George Washington's Birthday (President's Day);
3. Memorial Day;
4. Independence Day;
5. Tataviam Day (Summer Solstice);
6. Labor Day;
7. Native American Day;
8. Veteran's Day;
9. Thanksgiving;
10. Christmas

Other holidays; may be declared by the Tribal President and Senate.

## **CHAPTER 2**

### **ARTICLE A**

### **CITIZENSHIP AND ENROLLMENT**

#### **SECTION 2-201 CONSTITUTIONAL AUTHORITY.**

- A. This Fernandeno Tataviam Band of Mission Indians shall consist of all Fernandeno Tataviam Indians who are enrolled pursuant to this Chapter and the Constitution.
- B. The Tribal Senate shall have the power to enact ordinances governing future citizenship and loss of citizenship in the Tribe pursuant to Article 17, Section g, of the Constitution.

#### **SECTION 2-202 PREAMBLE.**

On June 11, 2017, Chapter 3, Article 6 of the Constitution of the Fernandeno Tataviam Band of Mission Indians was amended to allow citizenship applicants to become eligible for enrollment by demonstrating lineal descent from certain federal records and rolls recognized by the Tribe.

The Tribal Senate, assembled to establish Future Citizenship Ordinances & Loss of Citizenship Ordinances, Rules & Regulations in accordance with Articles 6 and 17 of the Constitution, enacted an ordinance on January 13, 2018 to amend this Chapter 2 consistent with those constitutional amendments. Such enactment amends the "Fernandeno Tataviam Citizenship Act of 2004" and replaces said act with the language of Chapter 2 contained herein.

#### **SECTION 2-203 DEFINITIONS.**

Words and Phrases as used herein, shall be defined as follows:

1. "Constitution" means the Constitution of the Fernandeno Tataviam Band of Mission Indians ratified by the qualified electors of the Tribe on November 15, 2002 and its subsequent amendments.

2. “Enrollment Application for Tribal Citizenship” or “Application” means the packet of documents required to be submitted with complete and accurate information to the Office of Tribal Citizenship.
3. “Lineal Descendant” means a blood relative in the direct line of descent of an enrolled citizen or ancestor, including the child or grandchild of an enrolled citizen or ancestor.
4. “Minor” means a youth less than 18 years of age.
5. “Minor Enrollment” and “Open Enrollment” are categories of enrollment allowing applicants to submit applications for enrollment to the Tribe.
6. “Office of Tribal Citizenship” means the office designated to receive and process applications for citizenship pursuant to the provisions of the Constitution and this Chapter.
7. “Tribal Citizen” means any person enrolled by Fernandeno Tataviam’s Office of Tribal Citizenship and confirmed by Fernandeno Tataviam Band of Mission Indians Tribal Senate.“
8. “Tribal Enrollment Number” means the number assigned to each Tribal Citizen as their identification number. Such numbers shall not be duplicated nor reassigned.
9. “Tribe” means the Fernandeno Tataviam Band of Mission Indians.

## **SECTION 2-204 CITIZENSHIP ELIGIBILITY REQUIREMENTS.**

As provided in Article 6, Section 1 of the Constitution, any person who can demonstrate that he or she satisfies one the following requirements is eligible for citizenship in the Tribe pursuant to the application requirements set forth in this Chapter 2:

1. Any person identified as identified as Fernandeno, neophyte or neofita from San Fernando, San Fernando Indian, American Indian or Indian, or Tataviam, on a federal roll or record recognized by the Tribe, listing Indians from San Fernando, the Mission San Fernando, or any village within the Tribe’s traditional territory as described in Article 3. Rolls recognized by the Tribe include the Seventh Census of the United States: 1850; the Eighth Census of the United States: 1860; the Ninth Census of the United States: 1870; the Tenth Census of the United States: 1880.
2. Any person who is a lineal descendant of a Fernandeno Tataviam ancestor listed on the records above that can demonstrate the applicant’s lineal ancestor maintained tribal relations prior to 1968; or
3. Any person who is a lineal descendant of an enrolled citizen of the Tribe.

Such person cannot be an enrolled citizen of any other Native American tribe. The adoption of an applicant by others, whether Fernandeno Tataviam or not, shall not alter the eligibility of the applicant for tribal citizenship.

## **SECTION 2-205 RELINQUISHMENT.**

Any applicant who applies for citizenship who otherwise qualifies for citizenship, but who has been enrolled in another Indian tribe or tribes, may become a Tribal Citizen; provided that such applicant shall relinquish, in writing, such citizenship or membership in the other Indian tribe or tribes and file such writing with the Office of Tribal Citizenship.

## **SECTION 2-206 REQUIREMENTS FOR CITIZENSHIP APPLICATIONS.**

Applicants shall satisfy the following requirements:

- A. The parent, legal guardian or lawful sponsor of a minor or incompetent may make application for citizenship on behalf of a minor or incompetent. The parent, legal guardian or lawful sponsor must sign all enrollment documents on behalf of said minor or incompetent.
- B. The Enrollment Application for Tribal Citizenship shall contain the information needed to establish citizenship. In the case of applicants who are 18 years of age or older, the application will contain necessary information to register such applicant as a voter in the Tribe should such applicant desire to register to vote, and so long as such applicant meets all the other requirements set out in the Constitution and Tribal law for voter registration.
- C. Any applicant under Section 2-204B must substantiate that the applicant's lineal ancestor maintained tribal relations by providing at least one form of tribal identification and one form of tribal participation. The Office of Tribal Citizenship shall provide applicants with examples of acceptable forms of tribal participation and tribal identification. Where applicants are lineal descendants of an enrolled tribal citizen applying under Section 2-204C, the tribal relations criteria is met and the applicant need only complete the Statement of Understanding per section 2-207A2(d).

The applicant for citizenship bears the burden of proof to establish eligibility for enrollment, pursuant to the qualifications in Section 2-204 above.

## **SECTION 2-207 APPLICATIONS FOR CITIZENSHIP.**

All new applicants petitioning for citizenship after April 2008 shall complete the documents and process listed within Sections 2-207 through 2-208.

### **A. Enrollment Application for Tribal Citizenship**

The Applicant must complete the Enrollment Application for Tribal Citizenship.

- 1. Applications shall be accompanied by the following, where applicable:
  - a. Certificate of Birth - Applicants shall submit a certified record of birth issued by the county in which the applicant was born. If a certified record of birth cannot be obtained from the county of the applicant's birth, the applicant may provide a certified copy from an appropriate state agency from the state in which the applicant was born. Abstracts of birth and hospital records will not be accepted. The applicant shall present the original to the Office of Tribal Citizenship to permit verification;
  - b. Certificate of Marriage – A married applicants that has changed his or her last name shall submit a certified copy of a county issued marriage certificate. The applicant shall present the original to the Office of Tribal Citizenship to permit verification;

- c. Divorce Decree – Where applicable, a certified copy of a county issued decree of divorce or dissolution of marriage. The applicant shall present the original to the Office of Tribal Citizenship to permit verification;
  - d. Notarized Letter of Identification - A copy of a notarized letter identifying any alias or known identities of an applicant. The applicant shall present the original or a notice published in a newspaper or other publication to the Office of Tribal Citizenship to permit verification;
  - e. Certificate of Birth of Parent and/or Grandparent from Whom Fernandeno Descent is Claimed - A copy of this certificate is required for applicants who claim descent from a parent or grandparent who was not previously enrolled in the Tribe;
  - f. Certificate of Death of Parent and/or Grandparent from Whom Fernandeno Descent is Claimed - A copy of this certificate is required for all applicants who claim descent from a parent or grandparent who was not previously enrolled in the Tribe and who is deceased;
  - g. Copy of the Applicant's Social Security Card – The applicant shall present the original to the Office of Tribal Citizenship to permit verification;
2. Forms developed by the Office of Tribal Citizenship submitted with complete and accurate information, including:
- a. Application for Citizenship;
  - b. Individual History Chart - This document requires information about the applicant's spouse(s) and children, including dates and places. It allows for the additional information about the applicant's parents, siblings and siblings' parents, including dates and places;
  - c. Family History Chart - This chart shall be completed to the most recent ancestor who fulfills Chapter 3, Article 6 of the Tribal Constitution;
  - d. Maintenance of Tribal Relations - This form will require information to demonstrate that the applicant has maintained relations with the Tribe as required in Section 2-206C;
  - e. Voter Registration Form - This form will be completed and submitted by applicants 18 years or older;
  - f. Statement of Understanding - The applicant shall sign this form acknowledging the applicant's responsibility for accurate information, tribal participation, and updating contact information. All submitted documents become property of the Tribe and legal guardians are responsible for ensuring minors maintain tribal relations;
  - g. Copy of a utility bill (gas, water, or electric) – The applicant shall provide this document to prove residency in order to assign tribal voting District citizenship but shall bring the original when registering to verify authenticity. Should the applicant not receive a utility bill in their name, some other bill or rental agreement reflecting the applicant's name and place of residency shall be accepted.
  - h. Additional information as requested by the Office of Tribal Citizenship.

## **SECTION 2-208 CITIZENSHIP ENROLLMENT PERIODS**

Minor Enrollment shall remain open at all times. Tribal Senate may substantiate temporary closure of Open Enrollment for a maximum of two years unless good cause is shown.

### **A. Enrollment Periods**

1. Previous Enrollment Periods: The Tribe previously established five tribal rolls including:
  - a. November 4, 1995 Roll developed as a result of the Tribe's adoption of the first self-imposed paper-based citizenship process necessitated by the 1994 revision to 25 CFR Part 83.
  - b. September 18, 2003 Roll initiated by the Tribe to enroll Tataviam who did not submit completed applications for the 1995 Roll. This process added criteria requiring the enrollment of minors. After remaining open for a year, citizenship enrollment closed for four years to review all documentation and admit citizens. As a result, there was a 54% increase in citizenship from 1995.
  - c. July 13, 2010 Roll including 58 new citizens since the 2008 roll. Nearly half of these new citizens were minors. After the 2010 roll, the citizenship application process was closed. The Tribe's Office of Tribal Citizenship reviewed all files and inputted all new citizens into a computerized database to update the Tribe's federal petition.
  - d. August 16, 2015 Roll constituting the roll for submission to the Office of Federal Acknowledgement. This roll was completed to enroll all citizens who lacked sufficient materials for citizenship application under prior enrollment periods. All Tataviam listed on the August 16, 2015 roll have met the requirements for citizenship per the Tribal Constitution.

2. Minor Enrollment

- a. Minor Applicant Eligibility
  1. Minor applicant MUST be from enrolled citizen of the Tribe, whose name appears of the Official Tribal Roll approved by Tribal Senate.
  2. Minor applicant parent(s) or legal guardian(s) MUST provide all legal and accurate documents of the minor's birth to an enrolled citizen of the Tribe.
  3. Registration of a Minor MUST be filed with the Tribe at the minor's birth or before the minor's eighteenth (18) birthday.

3. Open Enrollment

- a. Open Enrollment Applicant Eligibility
  1. Any person may apply for tribal citizenship during the Open Enrollment period in accordance to Chapter 2, Section 2-204.
- b. Provisions
  1. The Tribal Senate shall set future open enrollment periods by resolution.
  2. Delinquent applications will not be accepted. Applicants who missed the deadline may resubmit during the next open enrollment period.
  3. Tribal Senate may substantiate temporary closure of open enrollment, for a period of no more than two years, unless good cause is established why the period must remain closed for a period exceeding two years.

- B. Application Process

1. Application Submittal

- a. Applicants seeking information can contact the Office of Tribal Citizenship for forms and clarification on the requirements of Chapter 2.
- b. During the application period, applicants may schedule a 15-minute appointment, the Application Appointment, with the Office of Tribal Citizenship prior to arrival.



- c. Applicants shall bring their completed Enrollment Application for Tribal Citizenship and provide copies of these documents to the Office of Tribal Citizenship.  
Duplications of Applications will be provided on a limited basis for a nominal charge to be determined by the Office of Tribal Citizenship. The original documents must be presented to the Office of Tribal Citizenship for verification of authenticity.
  - d. During the Application Appointment, the Office of Tribal Citizenship will complete an Enrollment Check-off List to ensure that all requested documents have been submitted. The Applicant must sign this document verifying the received documents.
  - e. A processing fee will be assessed for each Enrollment Application for Tribal Citizenship. The processing fee, determined by the Office of Tribal Citizenship, is for administrative purposes including, but not limited to, file folders, paper, envelopes, copies, postage, etc. The fee shall be paid in full at the time of the Application Appointment by cash or money order. The Tribe will not accept Applications without the processing fee. The Applicant may schedule another appointment when they are able to pay the processing fee.
  - f. All documents submitted to the Tribe pursuant to this Chapter become property of the Tribe.
  - g. Applications mailed to the Office of Tribal Citizenship must contain the original for all documents because they did not make an appointment for the staff to verify the authenticity of the Application. No copies will be accepted. Applicants shall include a self-addressed stamped envelope for the return of some original documents.
2. Application Review
- a. Notice of Failure to Complete  
The Office of Tribal Citizenship will notify applicants of incomplete files and of the requirements for completing their files. Upon request of the applicant, the Office of Tribal Citizenship may grant additional time to an applicant to provide complete documentation. Failure to submit required documents by the final deadline set by the Office of Tribal Citizenship will result in rejection of the Application. Notice shall be sent to the Applicant indicating the reason for rejection.
3. Processing the Verification List
- a. The Office of Tribal Citizenship will develop the Verification List which shall contain names of the applicants fulfilling all requirements set forth in this Chapter.
  - b. The Office of Tribal Citizenship shall submit the Verification List to Tribal Senate and Tribal President.
4. Tribal Senate Approval
- a. Tribal Senate shall review the submitted list of Applicants on the Verification List.
  - b. Tribal Senate may approve the Verification List as a whole or by individual Applicants.
5. New Tribal Citizens
- a. Applicants approved by the Tribal Senate shall be sent a Notice of Tribal Citizenship.
  - b. Notice of Tribal Citizenship
    - 1. This Notice shall include, but is not limited to, the following information:
      - a. Acceptance as a Tribal Citizen;

- b. Tribal Enrollment Number;
- c. Role as a Tribal Citizen;
- d. Tribal Government Calendar
- e. Notice of requirement to participate in the Tribal Census and General Meeting pursuant to Code.

#### **SECTION 2-209 ACTIONS ON REJECTED APPLICANTS.**

- A. The Office of Tribal Citizenship or the Tribal Office staff so designated to receive and process applications for citizenship in the Tribe shall provide the Tribal Senate, a list of the names of all rejected applicants, and certify to the Tribal Senate that written notice of rejection has been sent to the applicant(s).
- B. The Office of Tribal Citizenship or the Tribal Office staff designated to receive and process applications for citizenship in the Tribe may dispose of the file of each rejected applicant after one (1) year from the date of rejection, or upon notification by the Tribal Administration that a rejected applicant has been denied citizenship or appeal by the decision of the Tribal Senate.

#### **SECTION 2-210 ACTIONS OF THE OFFICE OF TRIBAL CITIZENSHIP.**

- A. The Office of Tribal Citizenship shall prepare a file of each rejected applicant for Fernandeño Tataviam citizenship, when a rejected applicant requests a hearing by the Tribal Senate. The Tribal Senate shall have 30 days from the date of the request for a hearing to enter an order granting or denying such hearing. At the end of a 30 day grace period, the Tribal President shall certify to the Tribal Senate the name of those rejected applicants who have petitioned the Tribal Senate for a hearing on their rejected application, but who are being denied a hearing; and, those rejected applications on which the Tribal Senate has granted a hearing and the date of such hearing.
- B. The Tribal Senate shall maintain each rejected applicant's file in each case that is pending before the Tribal Senate, until ultimate disposition of each case is determined.
- C. The Tribal Senate, at their discretion, may dispose of any file on a rejected applicant who has been denied a hearing and who does not have any other avenue of appeal from the decision of the Office of Tribal Citizenship. The Office of Tribal Citizenship shall notify the applicant of such disposition.
- D. The Office of Tribal Citizenship shall inform the Tribal Senate of each rejected applicant in which the Tribal Senate has determined that citizenship in the Tribe has been confirmed by the Tribal Senate.

#### **SECTION 2-211 EFFECTS OF DECISIONS.**

The decision of the Tribal Senate, at the conclusion of all appeals, shall be final.

#### **SECTION 2-212 CITIZENSHIP CARD.**

- A. Upon an applicant's verification of citizenship in the Tribe, said person shall be issued a "Tribal Identification Card" for a nominal fee to be determined by the Office of Tribal

Citizenship. This citizenship card, issued by the Office of Tribal Citizenship, shall, as a minimum, contain the following:

1. Front: Name of citizen, including maiden name; date of birth; tribal enrollment number; address of residency; picture of the citizen; and, the card shall be imprinted with the Seal of the Tribe in confirmation of Citizenship.
2. Back: Signature and Tribal Office contact to return card if found.

#### **SECTION 2-213 RECORDS.**

- A. All records of all Tribal Citizenship and Applications for Citizenship are confidential and may be used only in accordance with official business of the Tribe, pursuant to tribal and other applicable law, including submission to the Department of Interior in connection with the Tribe's application for federal recognition.
- B. Upon receipt of appropriate documentation, the Office of Tribal Citizenship is authorized to update the information of an applicant or citizen, including but not limited to the following:
  1. Name change by marriage, divorce, dissolution or court decree;
  2. Written and signed statement of applicant or citizen of a change of address;
  3. Record of Death by death certificate, BIA record, mortuary record, hospital record, publicized obituary notice from a newspaper, court decree, or, in the absence of any such documentation, a signed statement from a relative, or person present at the deceased's funeral who can document the grave location and date of death.

#### **SECTION 2-214 LOSS OF CITIZENSHIP.**

- A. Any Tribal Citizen, who is eighteen (18) or older, may relinquish his or her citizenship by providing a signed and notarized writing to the Office of Tribal Citizenship or Tribal Administration. In lieu of notarization, the relinquishing citizen's signature can be confirmed by the signing of two (2) witnesses. Such relinquishment shall become effective on the date it is received by the designated office.
- B. A legal guardian of a minor or incompetent may request the relinquishment of such minor's or incompetent's citizenship upon documented proof to the Office of Tribal Citizenship or the Tribal Administration that the guardian has legal custody of the minor or the incompetent.
- C. A Tribal Citizen who is discovered to have been erroneously conferred citizenship in the Tribe, pursuant to the provisions of this Act or the Constitution of the Tribe shall be subject to revocation of citizenship under the following provisions: said citizen shall be notified by certified mail, return receipt requested, of the intent to revoke citizenship and the information that prompted the revocation action. Such notice shall include the date for the hearing that shall be no less than thirty (30) days from certified mailing of the notice, that the Tribal Senate as a review panel will hear the matter on that date in informal session, and that such citizen may appear to show cause why citizenship should not be revoked. Failure of the citizen to appear at the scheduled hearing shall be deemed a waiver of any challenge to the proposed revocation. The decision of the Tribal Senate shall be final.

**SECTION 2-215 EFFECTIVE DATE.**

This law is deemed effective on March 11, 2018, the date it was enacted by the Tribal Senate in accordance with the provisions of the Constitution and laws of the Tribe.

**ARTICLE B  
TRIBAL SOCIAL LIVING FUND****SECTION 2-220. STATEMENT OF POLICY.**

This chapter is enacted for the following purposes:

- A. To promote the general welfare of the Fernandeano Tataviam Band of Mission Indians and its citizens, to provide for fair and equitable per capita distribution to eligible citizens from all tribal commercial activities conducted by and on behalf of the Fernandeano Tataviam Band of Mission Indians; and
- B. To establish the "Tribal Social Living Fund" for the allocation of the net revenues earned by the Tribe from all Tribal enterprises and then further distributed by the Tribe in accordance with this revenue allocation plan; and
- C. To provide for long-term investment of Tribal Social Living Fund derived from tribal business venture activities, to be invested in a manner which will provide for the general welfare of the Tribe over a period of time longer than 15 years; and
- D. To provide for an allocation of funds to the Tribe's general fund, to be used in the operating budget of the Tribe in each fiscal year; and
- E. To provide funding for retirement of debt associated with any and all Tribal facilities, schools, and other facilities, the development of housing and infrastructure of the Tribe, and to support the general welfare of the Tribe and its citizens as set forth in this chapter.

**SECTION 2-221. DEFINITIONS.**

Words and phrases as used herein, shall be defined as follows:

- 1. "Higher education" shall mean college, graduate, or professional school. Higher education shall not mean secondary school.
- 2. "Manager" shall mean that person or institution retained by the Tribe to manage and oversee the investments of the Special Trust Fund.
- 3. "Citizen" shall mean those persons, including persons not legally competent, who are duly recognized as enrolled citizens of the Fernandeano Tataviam Band of Mission Indians by the Tribe.
- 4. "Minor" shall mean a citizen who has not yet reached the age of 18 years.

5. "Revenue allocation plan" shall mean this Section 2, Chapter 2 of the Tataviam Code.
6. "State" shall mean the State of California.
7. "Tribal Senate" shall mean the legislative body of the Fernandeño Tataviam Band of Mission Indians.
8. "Tribal Treasury" shall mean the executive finance authority of the Fernandeño Tataviam Band of Mission Indians.
9. "Tribal Entity" shall mean all tribal establishments, and future welfare programs established by the Tataviam Corporate and Commerce Commission or TCCC , Tribal Senate, and Tribal President.
10. "Tribal management" shall mean the Finance Committee, the Tribal Treasurer, and Tribal President, who shall be jointly responsible for verifying the calculation of Tribal Social Living Fund on a monthly basis for purposes of this chapter and for making monthly deposits of such Tribal Social Living Fund into the appropriate accounts or funds under this chapter.
11. "Tribe" shall mean the Fernandeño Tataviam Band of Mission Indians.
12. "Commerce" shall mean all legal entities/enterprise established by the TCCC and Tribal President for carrying on commercial or industrial enterprise to achieve specific declared financial goals.

#### **SECTION 2-222. ALLOCATION OF TRIBAL SOCIAL LIVING FUND.**

In order to provide for the general welfare of the Tribe and its citizens, the Tribal Treasurer of the Tribe shall review the income and expenses of all commerce operations each year and present a report on such matters to the Tribal Senate. Such report shall be presented to the Tribal Senate no later than the third week of March. The Tribal Senate shall determine the overall needs of the Tribe and its citizens as well as the need to promote Tribal economic development and shall then submit a financial report to the Tribal President. The Tribal President then shall adopt a budget, which will include the amount provided for allocation of available funds including allocation of net revenues from tribal commercial activity pursuant to this chapter.

#### **SECTION 2-223. ELIGIBILITY.**

- A. Citizenship Requirements. Each citizen, as defined in Section 2-221, who does not fall within the specific exemptions listed in paragraph (B) below, shall be eligible for allocations from the Tribal Social Living Fund.
- B. Ineligible Citizens. The following are not eligible to receive per capita distributions from the Tribal Social Living Fund:
  1. A former citizen disenrolled pursuant to tribal law.

2. Any citizen who has been convicted on three separate occasions of any drug offense, or any felony (whether or not that punishment has been imposed).
    - a. This section shall apply only to offenses that occur after the effective date of this section. The Tribal Senate shall notify the Tribal Treasurer of any person to whom this section applies.
    - b. Per capita distributions shall be paid to a responsible person for support of the convicted person's minor children, if any, to the Tribe to cover any debt owed by the defendant to the Tribe, or to the convicted person's victim(s) for restitution, until such amounts are paid in full.
    - c. If no amounts are payable under Section 2-223(B)(2)(b), then a convicted person to whom this section applies shall not be used in calculating the shares for per capita distribution from the Tribal Social Living Fund.
  3. A citizen who for religious or other reasons has voluntarily signed a waiver of his or her per capita distribution in portion or whole shall not be eligible to receive any per capita payment as described during the period such a waiver remains on file with the Tribal Enrollment Department. Such a waiver may be revoked, but the revocation shall only be effective as to future per capita payments distributed 60 days or after written revocation of the waiver is received by the Tribal Enrollment Department.
- C. Publication of Roll of Eligible Citizens. At least 30 days, but no longer than 45 days before the date of a scheduled distribution date, the Enrollment Department shall publish a list of those persons found eligible for such payments. New citizens who are approved enrollment within less than 60 days of a scheduled distribution date shall not be eligible for distribution until the next scheduled distribution.
- D. Time Limit for Claiming Distribution.
1. A citizen who is eligible for, but does not receive, a per capita distribution must make a written request to the Finance Office within 60 days of the date of distribution.
  2. In circumstances where a deceased citizen is eligible for but does not receive a per capita distribution, the authorized representative of the deceased citizen's estate must make a written request to the Finance Office for the distribution within one year of the deceased citizen's death.
  3. Upon failure to make a request in writing within the time provided in this section, the citizen's entitlement to the missed distribution shall expire. Any unclaimed funds held in reserve for such claims shall be distributed to the Foundation Fund.
  4. In a request made pursuant to Section D(1), the citizen must demonstrate that they were unaware of their citizenship in the Tribe, of their eligibility to receive distributions, and the time limit for claiming them.
- E. Citizens Must Provide Accurate Information. Distributions are made based on the official tribal citizenship roll provided by the Enrollment Department to the Tribal Treasurer. Each enrolled citizen is responsible for providing to the Enrollment Department complete and accurate personal information including, but not limited to, name, mailing address and social security number, in writing they have prepared. The

citizen must keep that information current. The Tribe is not liable for a citizen's failure to provide the information in the manner required, which may result lost of per capita distribution.

#### **SECTION 2-224. DISTRIBUTION TO CITIZENS.**

- A. Semi-Annual Distribution. Per capita payments shall be made within 45 days of March 31st and September 30th of each year to all citizens eligible for the distribution pursuant in Section 2-223.
- B. Financial Information. In calculating disbursement, the Treasurer shall use financial data provided by the Finance Committee for the first semi-annual disbursement and shall calculate disbursements for the second semi-annual disbursement through a certified audit. Tribal Management shall make appropriate allocations and transfers and insure that per capita distributions are made no later than 45 days after the end of the first disbursement closure date and again at the end of the fiscal year.
- C. Certified Roll of Eligible Citizens. The Tribal Enrollment Department shall deliver to Tribal Management a current certified roll of all citizens eligible under this chapter, and in accordance with the Tribal Enrollment Ordinance, no later than March 31st and September 30th of each disbursement year. This roll shall also be published in the Tribal Senate News Brief, together with notice that any objections to the inclusion of a persons on the roll, information regarding a person deemed to be ineligible for distribution or information regarding the death of a person listed on the roll shall be promptly presented to the Enrollment Department.
- D. Percentage of Tribal Social Living Fund. The percentage of the Tribal Social Living Fund available for distribution under this chapter shall be determined by applying the following formula: An amount shall be added which is the sum of Total Shares. Total Shares is defined as: 2 shares per Tribal citizens from 24 years old and up and 1 share per Tribal citizen between the ages of 18 thru 23. The total shares distributable to competent adult citizens and deceased citizens shall multiply the distribution per share.
- E. Balance of Funds. The balance of the funds after calculation of the amount to be distributed to eligible citizens.
- F. Distribution for Deceased Citizens. An eligible citizen who has passed away prior to the date of any scheduled disbursement shall be eligible to receive a pro ratable share of the proposed disbursement for each and every month during the calculation period that the citizen was alive. The Tribal Finance Office shall disburse any and all funds of the deceased Tribal citizen to the authorized, or Senate appointed, administrator for the deceased's estate.
- G. Garnishment. Except as specifically set forth in this section, the per capita disbursements to which each Tribal citizen is entitled are absolutely exempt from creditors and shall not be garnished, attached, or paid to any other person or entity. Per capita payments may be garnished only as follows:

1. Garnishment for Child Support. A parent, guardian, court-appointed trustee, or other individual or entity, who has provided for the support of any minor Tribal citizen, may request the court-ordered garnishment of any responsible enrolled citizen's per capita distribution for the support of the minor child. Such a garnishment shall only be effective if it is ordered in compliance with subparagraph (C)(3) below.
2. Garnishment for Debts Owed to the Tribe. The Tribe may administratively garnish a citizen's per capita payment to reimburse the Tribe or a Tribal entity for outstanding fees, costs, rent, judgments, user fees, or other charges owed to the Tribe or the Tribal entity. This subsection shall not apply to fees, costs, rent, judgments, user fees, or other charges owed to individual Tribal citizens. Such a garnishment shall only be effective if it is ordered in compliance with subparagraph (C)(3), below.
3. Procedure. Garnishment orders may only be held if the following minimum due process requirements have been met:
  - a. Garnishment of per capita is only permitted to enforce a valid, final, and enforceable court order or judgment entered after the garnishee was personally served with notice of the proposed garnishment, and given an opportunity to be heard in compliance with the law of the jurisdiction granting the judgment.
  - b. The Tribal finance office must receive a list of garnishments no less than 30 days before a scheduled disbursement.
  - c. The garnished funds shall be deposited with the Tribal Treasurer for disbursement in accordance with the court order after the time for legal review under subparagraph (C)(4) has passed.
  - d. After these procedures have been followed once, the garnishment order shall remain in effect for subsequent distributions until the debt is paid.
4. Legal Review. The Tribal Finance office shall hold funds garnished pursuant to court order for a period of ten working days after the per capita disbursement. Upon a request within those ten days by a citizen whose per capita has been garnished, the office of the Legal Counsel will review the court records to ensure there was compliance with this section. Upon discovery of a failure to comply with these procedures, the office of the Legal Counsel will notify the court and the court in escrow shall hold the funds until tribal citizen can be given notice and an opportunity to be heard.

H. Voluntary Assignment. This subsection shall apply only to debts owed to the Tribe or to a Tribal entity listed in Section 2-221. A citizen who owes an obligation to the Tribe or a Tribal entity may enter into a voluntary assignment agreement for all or part of the amount of the scheduled disbursement as provided below:

1. The Office of the Treasurer shall develop a voluntary assignment agreement form. Voluntary assignments shall not be enforced unless they are completed on the proper form, notarized, and filed with the Tribal Finance Office at least 30 days prior to a scheduled per capita disbursement.



2. A Tribal entity requesting a voluntary assignment shall first pay a fee of \$35.00 to the Tribal Finance Office for the costs of administering the voluntary assignment, which fee will be charged to the citizen.
  3. A voluntary assignment may cover past and for future obligations owed by the citizen to the Tribe or Tribal Entity. A single assignment may obligate multiple per capita distributions, such as to ensure repayment on a monthly basis of a tribally guaranteed home mortgage loan.
  4. Voluntary assignments, unless they expressly stated otherwise, convey to the Tribe all present and future right, title and interest in per capita distributions; they shall remain in effect and are irrevocable until the debt for which the assignment is made is paid in full.
  5. A Tribal citizen who receives a Tribal guarantee of a loan to purchase, refinance, construct or improve a home under a loan guarantee program approved by the Tribal Senate may assign his or her per capita in advance to the Tribal division, program or entity chartered with administering the guarantee program, or have his/her per capita garnished by the Tribe or Tribal Entity under subsection (C-1, for repayment of the debt owed to the Tribe or the lender, maker, holder, successor or assign of the mortgage.
- I. Priorities. In the event there are multiple garnishments or assignments against a citizen, priority for disbursement of funds shall be as follows:
1. Garnishment under subsection (G) for child support;
  2. Garnishment under subsection (G) for debts to the Tribe or a Tribal Entity; and
  3. Assignments under subsection (H) for debts to the Tribe or a Tribal Entity.
  4. Within each category above, the date of the garnishment order or the grant of the assignment shall determine priority.
- J. Limitation on Garnishment. Except as specifically set forth in subsections (G) and (H) of this section, the per capita disbursements to which each Tribal citizen is entitled are absolutely exempt from creditors and shall not be garnished, attached, or paid to any other person or entity. Any resolution, ordinance, or code provision, which states or implies otherwise is hereby rescinded and shall have no further force or effect.
- K. In connection with a loan transaction or an agreement to repay a debt, the Tribe or a Tribal Entity may create a secured interest in an enrolled citizen's present and future per capita distributions by having the enrolled citizen execute a security agreement and financing statement, which may be combined into a single document. The financing statement or combined document is deemed to be properly filed and the security interest perfected when the statement or combined document is maintained in the files of the Tribal Treasurer and Finance Office or the Tribal program or Tribal Entity obtaining the security interest, and the per capita distribution is possessed by the Tribe. A per capita distribution is possessed by the Tribe from the time the funds are received by the Tribe until they have been distributed by check to the enrolled citizen.

**SECTION 2-225. RESERVED.**

## **SECTION 2-226. TAXATION.**

All payments made to individual citizens are subject to United States Internal Revenue Services (IRS) applicable taxes, and the Finance Officer shall comply with applicable law regarding withholding from per capita payments.

## **SECTION 2-227. REVENUE ALLOCATION PERCENTAGES.**

- A. All net revenue generated from all Tribally owned operations, in accordance to Title 9 §9-308, shall be allocated as follows:
- |    |                               |      |
|----|-------------------------------|------|
| 1. | Tribal Social Living Fund     | 5%   |
| 2. | Tribal General Fund           | 34%  |
| 3. | Tribal Housing Fund           | 10%  |
| 4. | Tataviam Education Trust Fund | 10%  |
| 5. | Capital Development Program   | 16%  |
| 6. | Foundation Fund               | 1%   |
| 7. | Health Fund                   | 18%  |
| 8. | Investment Funds              | 6%   |
|    | TOTAL                         | 100% |
- B. No distribution of the Tribal Social Living Fund to tribal citizens shall be made until a surplus of one-year and half is established in the account of the minimum of the set share value to issue per capita by Tribal Senate.
- C. Annual fund balances in the following funds shall be subject to these limitations:
1. Any fund balance in excess of \$2,000,000 in the Health Fund at the end of each fiscal year shall be distributed to the Capital Development Program to be reserved and invested to address future funding short-falls or capital improvement needs.

## **SECTION 2-228. ENDOWMENT AND INVESTMENT FUNDS.**

- A. There shall be established Investment Funds. The purpose of the Investment Funds shall be to provide a long-term investment and capital appreciation vehicle for the Tribe. The goal for the first Investment Fund shall be to accumulate and grow capital for the long-term economic growth and security of the Tribe and its citizens. Tribal management shall make monthly deposits from Tribal Social Living Fund into this Fund.
- B. The first Investment Fund shall be maintained for the long-term success of the Tribe and not spent, but which may be pledged as security. Earnings of the first Investment Fund shall be added to the principal of the first Investment Fund. The minimum value of this fund shall increase annually based on the dollars, as required in subsection (b), shall be deposited in the second Investment Fund.
- C. Monies deposited in the second Investment Fund shall be used as follows:
1. 50 percent of the annual allocation may be spent for the purposes in Section 2-229;

2. All earnings may be used for the purposes in Section 2-229; and
  3. 50 percent of the annual allocation shall be deposited and maintained as principal in the second Endowment Fund.
- D. Provided, however, that the principal of the second Endowment Fund may be used to purchase additional lands for the Tribe, so long as:
1. Other funds are not available for that purpose; and
  2. In any fiscal year the amount expended does not exceed the amount deposited into the Fund under subparagraph (3) of this subsection.
- E. The first and second Investment Funds shall be used only for the purposes expressed in Section 2-229. They shall not be used as supplements to the General Fund. The Tribal President and Tribal Senate shall review the requirements for the second Endowment and Investment Fund every two years to evaluate the need for, and adequacy of, that Fund.

#### **SECTION 2-229. INVESTMENT FUNDS.**

Except as restricted in Section 2-228, money deposited in the investment funds shall be invested in a balanced investment portfolio seeking long-term gain and capital appreciation, with investments not subject to investment limitations of GASB. Such funds may also be used to purchase additional lands for the Tribe; to acquire or make loans or investments in new or ongoing business enterprises for the Tribe; to acquire or make loans or investments in additional business enterprises and/or to supplement or loan funds to existing Tribal business enterprises; to fund, or provide a tribal match for funds obtained from other sources for, major infrastructure projects; and to pay off existing indebtedness of the Tribe or Tribal enterprises, but such funds shall be limited to External Investments as defined in this chapter. Any additional land purchases or any loans made to ongoing business enterprises, or Tribal Senate shall approve loans made to additional business enterprises.

#### **SECTION 2-230. LIMITATIONS ON RESERVES OF INVESTMENT FUNDS.**

No more than ten percent (10%) of the assets of any Fund may be invested in any single stock, bond, instrument, entity, company, fund or project or cumulatively.

#### **SECTION 2-231. MANAGEMENT OF INVESTMENT FUNDS.**

The Business Committee shall manage the investment of the principal and earnings of the Investment Funds and shall work with not less than three institutional managers to establish a balanced portfolio for the Funds.

#### **SECTION 2-232. RESERVED.**

#### **SECTION 2-233. HOUSING FUND.**

- A. There shall be created a Housing Fund. The purposes of the Housing Fund shall be:
1. To establish a revolving loan fund to provide for the long-term housing needs of the Tribe's enrolled citizens;
  2. To provide funding to assist Tribal citizens in obtaining adequate housing infrastructure;
  3. To provide surveying services;

4. To provide road construction into new housing development areas;
  5. To provide utilities and site improvement construction into new housing areas;
  6. To alleviate the backlog, if any, in the Home Improvement Program (HIP);
  7. To fund and establish the Tataviam Housing Authority program to provide home ownership and rental opportunities for enrolled citizens;
  8. To pay administrative expenses related to the programs established under this section; and
  9. For such other housing-related functions as may be established by Tribal Senate resolution.
- B. The Tribal President and Tribal Senate shall:
1. Develop a long-term strategic housing plan, updated annually, establishing priorities for expenditure and other relevant details; and
  2. Create and approve an annual budget addressing how the available funds will be expended consistent with that strategic plan.

#### **SECTION 2-234. TATAVIAM EDUCATION TRUST FUND.**

There shall be established a Tataviam Education Trust Fund. The Tataviam Education Trust Fund shall provide funds for two higher education funding programs, one entitled the Higher Education Program and a second entitled the Primary Education Program. The purpose of this program shall be to provide funding to assist enrolled citizens with their higher education needs.

- A. The Higher Education Program may be used to fund the Summer College Internship Program and special preparatory classes that assist applicants in gaining entrance to college, graduate or professional school. Such funds shall not be made available to pay the costs of secondary school or extra curricular activities. In each fiscal year, a minimum of ten percent of the funds distributed to the Tataviam Education Trust Fund shall be allocated to the Higher Education Program. The Higher Education Committee, in conjunction with the Finance Department, shall establish the criteria for distributions from the Higher Education Program.
- B. The purpose of the Primary Education Program shall be to implement the Tataviam Elementary School Strategic Plan and Facility Master Plan. At least 50 percent of the Tataviam Education Trust Fund shall be allocated toward implementing the Facility Master Plan.

#### **SECTION 2-235. CAPITAL DEVELOPMENT PROGRAM FUND (CDP).**

There shall be established a Capital Development Program Fund. The purpose of the Capital Development Program Fund shall be to provide for ongoing capital improvement of Tribal operations and programs.

#### **SECTION 2-236. FOUNDATION FUND.**

There shall be established the Foundation Fund. The purpose of the Foundation Fund shall be to support charitable non-profits, academics, and religions organizations as well as both local and federal government community projects for enhancement and enrichment.

#### **SECTION 2-237. HEALTH FUND.**

The Tribal Senate shall create and fund a Health Fund. The purposes of the Health Fund shall be:

1. To purchase Medicare insurance for eligible enrolled citizens;
2. To assist enrolled citizens needing Priority 1 medical procedures;
3. To supplement funding for a wound care center to serve enrolled citizens;
4. To supplement necessary dental services for enrolled citizens who are children;
5. To purchase pharmaceuticals for enrolled citizens pursuant to guidelines to be established by the Health Board and Tribal Senate as described below;
6. To supplement funding shortfalls at future tribal medical facilities;
7. To pay administrative expenses related to the programs established under this section;  
and
8. For such other health-related purposes as the Tribal Senate may determine by resolution.

The Tribal Senate shall establish the Tribal Health Board that will administer the health and medical division. The health and medical shall conduct a needs assessment and develop a plan for eligibility and other requirements for such programs, subject to final approval by the Tribal Senate. Based on that plan, funds will be allocated to the various programs through the annual budget approval process. The Tribe shall be payor of last resort for all programs established to purchase medical services, and shall not be responsible for coverage except to the extent that the Tribal Senate specifically appropriates funds.

#### **SECTIONS 2-238, 2-239. RESERVED.**

#### **SECTION 2-240. AMENDMENTS.**

This chapter may be amended by action of the Tribal Senate in a meeting at which a quorum is present by a majority vote of the Senate membership.

### **CHAPTER 3 CEREMONIES, CUSTOM AND LANGUAGE**

#### **SECTION 2-301 FERNANDEÑO TATAVIAM ANNUAL MEETING.**

The Annual Meeting of the Fernandeno Tataviam people shall be held in the month of June, Tribal President shall set location.

#### **SECTION 2-302 FERNANDEÑO TATAVIAM BURIAL POLICY.**

The Fernandeno Tataviam shall provide funding to serve its citizens under a Burial Grant. The Burial Grant may be allocated to each registered citizen the amount will be appropriated each fiscal year by the Tribal President in each budget year. The allocation for Burial Grant shall be a

prorated share of said Burial Grant in an amount equal share to each Fernandefio Tataviam citizens. This grant shall be administered to meet needs which are unmet by burial plans or burial insurance held by the decedent. Said funds will be paid directly to the funeral home.

**SECTION 2-303 TRIBAL LANGUAGE.**

The Fernandefio Tataviam tribal language

**CHAPTER 4**  
**OFFICERS AND EMPLOYEES OF THE TRIBE**

**ARTICLE A**  
**GENERAL PROVISIONS**

**SECTION 2-401 OFFICERS ESTABLISHED, QUALIFICATIONS.**

- A. The officers of the Tribe shall include all elective officials.
- B. Officers shall have the qualifications prescribed by the Constitution and enactments of the Tribe.

**SECTION 2-402 OATH OF OFFICE.**

- A. Every officer of the Tribe, before entering upon the duties of his/her office, shall take the oath or affirmation of office prescribed by the Constitution.
- B. The oath of office shall be taken on June 1st or the first regular working day of office.
- C. June. If June 1st is on a weekend or holiday or if circumstances beyond the control of the official taking the oath precludes him from being sworn in at that time, the oath of office shall be taken at the earliest possible time convenient and practicable.

**SECTION 2-403 WHO MAY ADMINISTER OATHS.**

A person selected by the Fernandean Tataviam Election Commission may administer oaths and affirmations.

**SECTION 2-404 REMOVAL OF OFFICERS.**

The power to remove an elected officer shall be as authorized by the Constitution.

**SECTION 2-405 TERMS OF OFFICE.**

The following elected officers of the Tribe shall serve for the terms respectively indicated for that officer and shall serve until his/her successor is duly elected and installed:

Officer Term

- 1. Senator 4 years
- 2. Secretary and Treasurer 4 years
- 3. Vice President (Chair of Senate) 2 years
- 4. President 4 years

**SECTION 2-406 VACANCY DEFINED.**

An elected office shall be deemed vacant from and after the occurrence of any of the following events before the expiration of a term of office:

- 1. Death of the person holding the office;

2. Resignation of the person holding the office;
3. Removal from office by impeachment, recall, or other method authorized by the Constitution or laws, of the person holding the office; and
4. Ceasing to meet any of the qualifications of office, including but not limited to residency requirements.

#### **SECTION 2-407 VACANCIES IN ELECTED OFFICE.**

- A. In the case of death, resignation, impeachment or recall of the President, the Vice President shall immediately become President for the remainder of the unexpired term. The President shall appoint a successor to serve the unexpired term of the Vice President by and with the advice and consent of the Tribal Senate.
- B. In the event of vacancies occurring in Tribal Senate, a special election shall be held within sixty (60) days of the vacancy, or reasonably delayed until the next regularly scheduled election for that position. The vacancy shall be filled by 2/3<sup>rd</sup> of Senate vote.

#### **SECTION 2-408 LEGAL PROTECTION FOR OFFICERS AND EMPLOYEES OF THE TRIBE.**

The Fernandeno Tataviam Tribal Senate extends full and complete tribal protection and indemnification to all officials, employees and/or agents of the Fernandeno Tataviam Tribe during any and all times that those officials, employees and/or agents are engaged in activities that are in full keeping with their assigned, mandated or delegated tasks as officials, employees and/or agents of the Fernandeno Tataviam Tribe. Such protections shall include legal protections for those persons who may become involved in litigation or in other actions brought against them as individuals or as officials, employees and/or agents of the Fernandeno Tataviam Tribe by the state or any of its agencies, departments, officers or employees.

### **ARTICLE B SALARIES OF OFFICERS**

#### **SECTION 2-421 TITLE.**

Be it enacted by the Tribal Senate of the Fernandeno Tataviam Band of Mission Indians assembled, that this Act may be cited as the "Salary Review Act of 2006."

#### **SECTION 2-422 FINDING.**

The Senate finds that a need exists for the review of salaries paid elected officials of the Fernandeno Tataviam Tribe in accordance with Article 17 of the Constitution of the Fernandeno Tataviam Band of Mission Indians.

#### **SECTION 2-423 DEFINITIONS.**

For the purpose of this Act:

1. "The Fernandeno Tataviam Band of Mission Indians" means the tribe of Indians located within the boundaries set forth in the Constitution of the Fernandeno Tataviam Tribe, being duly recognized by the Secretary of the United States Department of the Interior, as a self-governing, sovereign government;



2. “Constitution” means the Constitution of the Fernandeno Tataviam Tribe as ratified by the voters of the Fernandeno Tataviam people on November 15, 2002;
3. “Fernandeno Tataviam Tribal Senate” or “Senate” means the Legislative Branch of the Fernandeno Tataviam Tribal Government as created and empowered by Chapter 4 of the Constitution;
4. “Chairperson” means that officer of the Senate as defined in Article 15, Section 1 of the Constitution;
5. “Senator” means a member of the Fernandeno Tataviam Tribal Senate;
6. “Vice President” means that officer of the Fernandeno Tataviam Tribal Government as defined in Article 15, Section 1 of the Constitution;
7. “President” means that officer of the Fernandeno Tataviam Tribal Government as defined in Article 30, of the Constitution;
8. “Prescribe” means to impose as a peremptory order, to give law or to direct.

#### **SECTION 2-424 AUTHORITY.**

- A. The basis for authority of this Act is Article 12 of the Constitution, wherein the Senate is granted the legislative authority of the Fernandeno Tataviam Tribe. In Article 12, the Senate is granted the power and authority to enact rules and regulations pertaining to the Fernandeno Tataviam Band of Mission Indians. In Article 17, “The Tribal Senate shall have the power to fix and prescribe salaries and allowances for all elected or appointed officials and employees of the Tribe. The Tribal Senate shall review said salaries and allowances every fourth year and shall increase or decrease as necessary.”
- B. The Fernandeno Tataviam Tribal Senate, with the adoption of this Act, hereby establishes the procedures whereby annual salaries for all elected officials of the Fernandeno Tataviam Tribe shall be reviewed and revised in accordance with Article 17, of the Constitution.

#### **SECTION 2-425 JUDICIAL DEPARTMENT SALARIES.**

Once Tribal Senate establishes the judicial department, then salaries shall be include and review in code.

#### **SECTION 2-426 SENATE DEPARTMENT SALARIES.**

- A. The base salary for all Tribal Senators shall not include any travel allowances, but travel reimbursement expenses shall be in accordance with legislative travel policies. Tribal Senators are entitled to a salary and allowances for duties perform while serving office.
- B. The salary of the Senators shall be the sum set by an annual salary for each year of service, which has been completed as a Tribal Senator under the Constitution.
- C. If a Senator does not complete a Senatorial year, the annual salary shall be calculated to end of office service.

**SECTION 2-427 EXECUTIVE DEPARTMENT SALARIES.**

- A. The salary of the President shall be the sum set by an annual salary for each year of service for each term of office completed as President under the Constitution.
- B. The salary of the Vice President shall be the sum set by an annual salary for each year of service for each term of office completed as Vice President under the Constitution.
- C. The salary of the Secretary of the Tribe shall be the sum set by an annual salary for each year of service for each term of office completed as Secretary of the Tribe under the Constitution.
- D. The salary of the Treasurer of the Tribe shall be the sum set by an annual salary for each year of service for each term of office completed as Treasurer of the Tribe under the Constitution.

**SECTION 2-428 REIMBURSABLE COSTS.**

All salaries and benefits of all elected officials shall be paid from tribal funds; however, any costs allowable under federal law to be reimbursed from federal sources for activities and/or actions taken by the tribal government or its employees, shall be billed on a monthly basis to the Tribe's indirect cost pool or, in such cases as are allowable and lawful, to the appropriate federal program, grant or contract. The Finance Department, under the supervision of the Treasurer, shall be responsible for compliance with this Section.

**SECTION 2-429 EFFECTIVE DATE.**

These provisions, as amended, shall not go into effect until the Tribe sets the General Account.

**CHAPTER 5  
EMPLOYEES AND PERSONNEL POLICIES**

**ARTICLE A  
FERNANDEÑO TATAVIAM INDIAN EMPLOYMENT PREFERENCE**

**SECTION 2-501 DISCRIMINATION PROHIBITED; EMPLOYMENT PREFERENCE.**

There shall be no discrimination against employees or applicants for employment. Notwithstanding this provision, preference for employment shall be given to Fernandeno Tataviam people and qualified Indian applicants.

**SECTION 2-502 DEFINITION.**

For the purpose of this article, "Fernandeno Tataviam Citizen" means any Fernandeno Tataviam Indian by blood whose name appears on the final rolls of the Fernandeno Tataviam Tribe approved pursuant to Section 2 of the Act of January 22, 2006 and their lineal descendants.

**ARTICLE B  
POLITICAL ACTIVITIES OF EMPLOYEES**

**SECTION 2-503 AUTHORITY.**

This is to establish, and to clarify, Employee rights and to ensure Employee protection as said rights and needs for protection relate to Political Activity.

1. Be it enacted by the Tribal Senate of the Fernandeno Tataviam Band of Mission Indians here assembled that this Act be cited as the "Fernandeno Tataviam Tribe Employee's Political Rights."
2. The Senate finds that:
  - a. A need exists for the Fernandeno Tataviam Tribal Senate to establish and protect the right of a tribal Employee, and any member(s) of his family, to express his/their opinion, both privately and publicly, on political issues and candidates; and
  - b. A need exists for the Fernandeno Tataviam Tribal Senate to establish and protect the right of a tribal Employee, and any member(s) of his family, not to be subjected to the exercise of **any** coercion, solicitation, influence, interest, or Political Activity, of **any** sort, directly or indirectly, by any candidate, elected official, appointed official, other Employee, or any Agent of any candidate, elected official, appointed official, or other Employee, while on Duty Status, whether in Assigned Work Areas or not.
3. The basis of authority for this Act is Article 12 of the Constitution, wherein the Senate is granted the legislative authority of the Fernandeno Tataviam Band of Mission Indians, and in Article 17 wherein the Senate is granted the power and authority to enact rules and regulations pertaining to the Fernandeno Tataviam Band of Mission Indians, and Article 7, Sections 1-3, wherein the right of every citizen to speak, write, or publish his opinions is protected, provided said right is not abused, and Article 17 wherein the Tribal Senate may

confer jurisdiction upon the Judicial Department. The Senate, with the adoption of this Act, hereby:

- a. Repeals all previous resolutions, laws and enactments which pertain to Employee political rights;
- b. Amends all previous resolutions, laws and enactments which pertain to tribal Employees;
- c. Amends all previous resolutions, laws and enactments which pertain to appointed officials;
- d. Amends all previous resolutions, laws and enactments which pertain to elected officials;
- e. Confers other jurisdiction upon the Judicial Department; and
- f. Designates an offense that shall place an elected official in jeopardy of sanction.

#### **SECTION 2-504 DEFINITIONS.**

For the purpose of this Act:

1. "Political Activity," as used herein, shall mean any activity whatsoever that communicates a political message of any sort, directly or indirectly, regarding tribal politics.
2. "Assigned Work Areas," as used herein, shall mean any physical location on any real property where any persons are working or conducting business of any sort for compensation by the Fernand  o Tataviam Band of Mission Indians.
3. "Duty Status," as used herein, shall mean any work being done or any business being conducted, of any sort, by any person, in any location, for compensation by the Fernand  o Tataviam Band of Mission Indians.
4. "Employee," as used herein, shall mean any person, except for elected officials, full-time or part-time, employed or contracted by, and receiving any compensation from, the Fernand  o Tataviam Band of Mission Indians.
5. "Compensatory Time," as used herein, shall mean time and a half off, with pay, in exchange for time in excess of forty (40) hours per calendar week.
6. "Agent," as used herein, shall mean any person who is designated by, authorized by, represents, or acts for or in the place of, another.
7. "Required," as used herein, shall mean directed, ordered, demanded, instructed, commanded, compelled, requested, or coerced, as a condition of continued employment.
8. "Violation of this Act," as used herein, shall mean any action of any sort, directly or indirectly, calculated to curtail any rights or protections established by this act.

## **SECTION 2-505 EMPLOYEE RIGHTS.**

A. With this Act, the Fernandño Tataviam Tribal Senate:

1. Establishes and protects the right of a tribal Employee, and any member(s) of his family, to express his/their opinion, both privately and publicly, on political issues and candidates for public office;
2. Establishes and protects the right of a tribal Employee, and any member(s) of his family, not to be subjected to the exercise of any coercion, solicitation, influence, interest, or action of a political nature, of any sort, directly or indirectly, by any candidate, elected official, appointed official, other Employee, or any Agent of any candidate, elected official, appointed official, or other Employee, while on duty, whether in Assigned Work Areas or not;
3. Establishes and protects any tribal Employee from:
  - a. Being Required to engage in any Political Activity whatsoever, directly or indirectly, while on Duty Status, whether in Assigned Work Areas or not;
  - b. Being Required to engage in any Political Activity whatsoever, directly or indirectly, while in Assigned Work Areas, whether on Duty Status or not;
  - c. Being Required to use his/her official authority or influence over subordinates, directly or indirectly, for the purpose of affecting the result of any tribal election;
  - d. Being Required to engage in any Political Activity whatsoever, directly or indirectly, while on Compensatory Time off or while on leave status with pay;
  - e. Being Required to contribute compensation, gifts, loans, entertainment, favors, time, goods, services, ideas, information, influence, opinions, or any other thing of any value, directly or indirectly;
  - f. Being Required to solicit, receive, collect, handle, disburse or account for any funds whatsoever for a partisan political purpose;
  - g. Being Required to organize, promote, or participate in, a fund-raising activity for a partisan political purpose, whether directly or indirectly;
  - h. Being Required to announce his/her candidacy for a political office until after resigning;
  - i. Being Required to act as a watcher;
  - j. Being Required to endorse or oppose a candidate for public office in any political advertisement, broadcast, campaign literature, or any similar material; and

4. Establishes and protects the above rights of a tribal Employee and any member(s) of his family, if said Employee or any member(s) of his family is an elected official.
5. Employees shall not be subjected to any adverse employment decision because of failure to support or choosing to support any particular candidate.

B. Any Political Activity not proscribed by this Act shall be protected as an Employee's right.

1. Any coercion, influence, interest, or action of any sort, directly or indirectly, by any candidate, elected official, appointed official, other Employee, or the Agent of any candidate, elected official, appointed official, or other Employee, that is calculated to curtail said right and/or any rights and protections established by this act, shall be a Violation of this Act.
2. Any Violation of this Act by any elected official, or by the Agent of said elected official, shall place said elected official in jeopardy of sanction.
3. Any Violation of this Act by any candidate other than an elected official, or by the Agent of said candidate, shall be an offense for which said candidate or Agent shall be barred from all Assigned Work Areas until the election for which said candidate has filed is over.
4. Any Violation of this Act by any appointed official, or by the Agent of said appointed official, shall be cause for removal of said appointed official.
5. Any Violation of this Act by any Employee, or by the Agent of said Employee, shall result in the immediate dismissal of said Employee.

The Tribal Senate shall have the jurisdiction to hear a Petition, filed by an Employee of the Fernandño Tataviam Tribe, based upon violation(s) of the Fernandño Tataviam Tribe Employee's Political Rights Act. The Senateshall, by majority vote, determine the validity of the Petition. By its ruling, the subsequent enforcement of this Act shall be carried out by the use of tribal and/or federal officials or policemen.

Should a question arise regarding the administration or implementation of this Act, the Tribal Senate shall generate an amendment or an addendum to this Act addressing same, to become part of this act upon approval.

## CHAPTER 6 RECORDS AND ARCHIVES

### **SECTION 2-601 CITATION OF TITLE.**

This Act may be cited as the “Code of the Fernandeno Tataviam Act of 2006.”

### **SECTION 2-602 AUTHORITY.**

The Fernandeno Tataviam Tribal Senate determined that a need exists for a code of laws to be enacted for the Fernandeno Tataviam.

### **SECTION 2-603 DEFINITIONS.**

Definitions:

- C. “The Fernandeno Tataviam” means the tribe of Indians located within the boundaries set forth in the Constitution of the Fernandeno Tataviam, being duly recognized by the Secretary of the United States Department of the Interior as a self-governing, sovereign government;
- D. “Constitution” means the Constitution of the Fernandeno Tataviam as ratified by the voters of the Fernandeno Tataviam on 2002;
- E. “Fernandeno Tataviam Tribal Senate” or “Senate” means the legislative branch of the Fernandeno Tataviam Tribal Government as created and empowered by Articles 12 of the Constitution;
- F. “Code,” “Fernandeno Tataviam Code,” “Tataviam Code” or “Tribal Code” means the Code adopted by this Act;
- G. “Effective Date” means the date that the Code of Tribal Laws shall be effective, as included in this Act;
- H. “Act” means this Act, as identified in Section 2-601;
- I. “Enactment,” “Act,” “Resolution” or “Law” means all actions taken by the Tribal Senate, which may have the full force and effect of law.

### **SECTION 2-604 CONSTITUTIONAL BASIS.**

The basis for authority of this Act is Article 12 of the Constitution, wherein the Tribal Senate is granted legislative authority of the Fernandeno Tataviam, and in Article 17, wherein the Tribal Senate is granted the power and authority to enact rules and regulations pertaining to the Fernandeno Tataviam in accordance with the Constitution.

### **SECTION 2-605 OTHER NAMES; APPROPRIATE.**

A codification of the enactments and other appropriate legislation of the Fernandeno Tataviam, through the Fernandeno Tataviam Tribal Senate, is hereby adopted as the “Code of the Fernandeno Tataviam,” “Fernandeno Tataviam Code,” “Tribal Code,” “Code” or by any other properly identifying designation.

**SECTION 2-606 PARAMETERS.**

This Code shall be treated and considered as a comprehensive enactment of the Tribal Senate, which shall codify all general and permanent enactments enacted by the Tribal Senate prior to January 22, 2006, and provides that all laws enacted on or after January 22, 2006, shall, subsequently, be made a part of the Code in accordance with the provisions herein.

**SECTION 2-607 EFFECTIVE DATE AND FORMAT.**

All provisions of this Code shall be in full force and effect from the date this Act becomes law. The codification of the laws of the Fernandño Tataviam is intended to be a recital of those laws within an organized format that provides for proper classification of the laws under specific captions called Titles, Chapters, Sub-chapters, Sections, Sub-sections, Parts and Sub-parts, and other such captions as are customary with a codification, whether specified or not. Inadvertent omission of a law or part of a law into the code which is not in conflict with other laws does not void or repeal that law, but, upon discovery of its omission in the code, shall be inserted into the code without further direction from the Tribal Senate.

**SECTION 2-608 CONTINUATION OF LAWS.**

The provisions appearing in this Code, so far as they are the same as those enactments existing as of January 22, 2006, shall be considered as continuations thereof and not as new enactments.

**SECTION 2-609 EXPANSION OF CODE NOT LIMITED.**

The provisions in this Code include, but are not limited to, revised and new provisions or regulations in each of the titles and chapters in the Code.

**SECTION 2-610 NEW ENACTMENTS; ADOPTION.**

J. Enactments and parts of enactments of a permanent and general nature passed or adopted on or after the effective date of this Code may be passed or adopted either:

1. In the form of amendments to the Code adopted by this Act; or
2. Without specific reference to the Code.

K. In either case, all such enactments and parts of enactments shall be deemed amendments to the Code. All of the substantive permanent and general parts of such enactments, and changes, made thereby in the Code, shall be inserted in the Code by the Tribal Senate on at least a semi-annual basis and without further direction by resolution or enactment of the Tribal Senate, or as may otherwise be provided.

**SECTION 2-611 UPDATING AND DISTRIBUTION.**

L. By contract or by the Fernandño Tataviam's personnel, a change or supplement to the Code shall be prepared and printed whenever authorized or directed by the Tribal Senate. The Code and updates shall be maintained both in printed form and on a storage data device (Flash drive, server, cloud service, etc). A change to the Code shall include all substantive permanent parts of enactments passed by the Tribal Senate or adopted by initiative and referendum, if any, during the period covered by the change and all changes made thereby in the Code. The printed pages of a change shall be so numbered that they will fit properly into the Code and where necessary, replace pages which have become obsolete or partially



obsolete, and new pages shall be so prepared that, when they have been inserted, the Code will be kept up to date. Updates will require the preparation of a new storage data device containing the entire updated Code. The words “as amended” and the date shall appear at the top of the first page of each Title.

- M. After every change has been prepared and printed, a number of copies of the change equal to the number of copies on order, or the number of copies of the Code still in existence, shall be distributed to the holders of the Code. Except as otherwise provided in this Section, the Code and updates shall be distributed in both printed form and on a storage data device. All copies distributed to the Executive Department shall be delivered to the office of the President.
- N. The Code shall also be maintained and updated on the tribal Internet site in PDF format for the use of the tribal citizens.

#### **SECTION 2-612 SALES AND REVENUES.**

The President is hereby authorized and directed to sell copies of the Code on any device used for data storage to the public at a price determined from time to time by the Tribal Senate. The expense of printing, updating and distributing the Code shall be borne by the Tribal Senate through the annual budget. Revenues from the sale of copies of the Code shall be handed over to the Comptroller to be deposited to the General Fund and credited to the budget of the Tribal Senate of the Fernandeano Tataviam. Such credit shall be computed, quarterly, on the basis of the fiscal year.”

#### **SECTION 2-613 MAINTENANCE; RULES AND REGULATIONS.**

The Tribal Senate, by approval of a simple majority of the Legislative Committee, may adopt rules and regulations regarding the general maintenance of the codification. A copy of such rules and regulations shall be kept in the President’s office for public inspection.

**SECTION 2-614 TITLES ENUMERATED, CURRENT.**

The Code, hereby adopted, consists of the following Sections:

1. General Provisions
2. Administration of Tribal Affairs  
Services & Government
3. The President & Executive Branch
4. The Tribal Senate
5. Elections & Campaigns
6. Community & Economic  
Development
7. Education & Cultural Learning
8. Enterprises (Tribal)
9. Finance & Taxation Enforcement
10. Health & Social Wellness
11. Tribal Historic and Cultural  
Preservation
12. Land & Natural Resources



CHAPTER 7  
TRIBAL BOARDS, COMMISSIONS AND AGENCIES

ARTICLE A  
GENERAL PROVISIONS

**SECTION 2-701 APPLICABILITY OF THIS ARTICLE.**

The provisions of this Article shall apply to all members of all boards, agencies and commissions created by act of the Fernandeno Tataviam Tribal Senate or by act of the President; provided, that such positions shall be subject to the provisions of this Article only if such positions are appointed by the President with the advice and consent of the Tribal Senate in accordance with the provisions of Article 16 of the Constitution.

**SECTION 2-702 WRITTEN OATH OF OFFICE.**

All members of all boards, agencies and commissions to which this Article shall apply, shall, upon the date of assuming their position as a member of that board, agency or commission, herein defined as the date of the first official meeting of that board, agency or commission after such member has been appointed by the President subject to the advice and consent of the Tataviam Tribal Senate and which they attend, shall file in the Office of the President or a written and signed Oath of Office, the wording of which shall be:

“I (state name), do solemnly swear (or affirm) that I will support, obey and defend the Constitutions of the Fernandeno Tataviam Band of Mission Indians and the United States of America, and will discharge the duties of my office with fidelity, so help me God.”

Such Oath of Office shall contain a place for that member to sign his or her name. Each such Oath of Office shall be dated with the date on which it is signed, and attested to by no fewer than two (2) witnesses. Copies of each such Oath of Office shall be retained in special files created for such purposes and maintained in the Office of the President. An Oath of Office shall be administered for each member of each board, agency or commission and for each term of appointment. If a person serves on more than one board, agency or commission, an Oath of Office must be completed for each such office held. Existing written and signed Oaths of Office forms already on file at the time of the adoption of this Act shall be considered fully executed for purposes of this Section.

**SECTION 2-703 COMPENSATION.**

- A. Each member of an official board, commission or agency of the Fernandeno Tataviam Band of Mission Indians to which the provisions of this Article shall apply as contained and defined in Section 2-700 [*sic*] [2-701], shall be eligible for compensation in the form of per diem and travel expenses as are normally allowed for regular, full-time employees of the Fernandeno Tataviam.
- B. However, any time that such board, commission or agency shall meet to conduct its regular or special meetings, all members shall be entitled to travel expenses and per diem at the rate normally allowed for travel or per diem in the area in which the meeting is conducted, regardless of the amount of time required for such meeting.

- C. Members of boards, commissions and agencies which are, as a course of their normal duties and/or functions, involved in meetings or tasks which last longer than four (4) consecutive hours, allowing for normal breaks for meals or other purposes, are entitled to compensation for their time at the rate of ten dollars (\$10) per hour, in addition to any compensation which might be received in the form of per diem and travel expenses. The administrative staff assigned to each such board, agency or commission shall be responsible for completion of paperwork for such compensation in accordance with the normal procedures used for regular, full-time tribal employees.

Should no such staff be assigned to such board, agency or commission, the Office of the President shall provide such services for those affected members.

- D. All persons subject to the provisions of Section 2-700 [*sic*] [2-701] as of January 22, 2006, shall be compensated in accordance with Section 2-703.

#### **SECTION 2-704 EXISTING LEGISLATION.**

Any existing legislation, which conflicts with this Act is hereby repealed.

### **ARTICLE B FERNANDEÑO TATAVIAM COMMERCE AND CORPORATION COMMISSION**

#### **SECTION 2-704-1.1 TITLE.**

Be it enacted by the Tribal Senate of the Fernandeno Tataviam Band of Mission Indians assembled, that this Act may be cited as the "Commerce and Corporation Code."

#### **SECTION 2-704-1.2 AUTHORITY.**

The basis for this authority is Chapter 4 of the Fernandeno Tataviam Band of Mission Indians Constitution.

#### **SECTION 2-704-1.3 PURPOSE.**

This Article is enacted for the following purposes:

- A. To promote the general tribal enterprises to provide organization and, infrastructure for current and future business development;
- B. Establish a corporation for which and through all tribal commerce is conducted and are governed by;
- C. Establish a parent Corporation to which all tribal businesses stem from; and
- D. Establish a Commission to oversee the Corporation.

#### **SECTION 2-704-1.4 DEFINITIONS.**

Words and phrases as used herein shall be defined as follows:

- 1. "Accounting" means the theory and system of setting up, maintaining, and auditing the financial records/books of tribal businesses; analyzing the financial

position and operating results of a tribal business house from a study of its sales, purchases, overhead and, other pertinent expenses.

2. “Accountant” means that person retained by the tribe to keep, audit, and inspect the financial records of individuals or business concerns and prepares financial and tax reports.
3. “Tribal Treasury” means the executive finance authority of the Fernandeno Tataviam Band of Mission Indians.
4. “Finance Committee” means the senatorial finance authority of the Fernandeno Tataviam Band of Mission Indians.
5. “C.E.O.” means Chief Executive Officer and highest-ranking executive retained by the Tribe and Tribal Commerce and Corporate Commission, responsible for carrying out the policies of the Commission on a day-to-day basis. This position shall report to and/or be under the direction of the “Tribal Corporate Commission” and/or “Corporate President” according to Tribal Code.
6. “C.F.O.” means Chief Financial Officer and is the senior manager who is responsible for overseeing the financial activities of an entire company. This includes signing checks, monitoring cash flow, and financial planning. This position shall report to and be under the direction of the “C.E.O.” according to Tribal Code.
7. “Director” means that person in higher authority of a “manager” retained by the tribe to control or govern the management affairs of a company or corporation.
8. “Manager” means that person retained by the tribe to manage and oversee day to day staff and operations of any assigned business or businesses.
- 9.
10. “Operations” means day to day duties and responsibilities not excluding, accounting, accounts receivable, accounts payable, cash batching, money handling, depositing or withdrawing of monies for business purposes.
11. “President” means that person retained by the tribe to be chief officer of a corporation or board of trustees. This position shall report to and be under the direction of the “C.E.O.” according to Tribal Code.
12. “State” means the State of California.
13. “Tribal Citizen” means any enrolled member of the Tribe.
14. “Tribal Corporate Commission” means a 3 member team composed of qualified professionals responsible for the oversight of all business affairs associated with the “Tribal Commerce Corporation”. This Commission shall report to and be

under the direction of the Tribal President and Tribal Senate according to Tribal Code.

15. “Tribal Laws” means to the laws and regulations set forth by the Tribal Senate within the Constitution and Tribal Code.
16. “Tribal Senate” means the legislative body of the Fernandeño Tataviam Band of Mission Indians.
17. “Tribe” means the Fernandeño Tataviam Band of Mission Indians elected business committee and legislative body.
18. “Vice President” means that person retained by the tribe to perform as deputy to a president, in charge of a specific department or location. This position shall report to and be under the direction of the “President” according to Tribal Code.

#### SECTION 2-704-1.5 LIMITED WAIVER OF SOVEREIGN IMMUNITY.

Any pledge of credit which requires the waiving of sovereignty of the Fernandeño Tataviam Band of Mission Indians shall only be accomplished by resolution of Tribal Senate and concurrence of the Tribal President, and shall state the exact time the waiver is to be in effect, and such effective time shall rule past any change in the elected Tribal Senate.

#### SECTION 2-704-2.1 TATAVIAM COMMERCE COMMISSION, PURPOSE OF.

The purpose of the Tataviam Commerce Commission (“Commission”) shall be to serve as the overseer of the Tataviam Commerce Corporation. The Commission shall serve as the Board of Directors of the Corporation.

- A. For the purpose of state filings, Commissioners will be listed as Chair, Vice Chair and Secretary/Treasurer.

#### SECTION 2-704-2.2 COMPOSITION.

The Commission shall consist of a minimum of 3 members to a maximum of 5, appointed by the Tribal President upon confirmation by the Tribal Senate with one member being the Finance Committee Chairperson.. Appointees shall be knowledgeable professional appointed based upon qualifications. Commissioners need not be member of Fernandeño Tataviam Band of Mission Indians. American Indian preferential hiring practices are considered.

#### SECTION 2-704-2.3 APPOINTMENT TERMS.

Commissioners shall serve 6 year terms regardless of title, Chair, Vice Chair or Secretary/Treasurer. Tribal President submits his recommendations for appointment with the accompanying title to Tribal Senate to confirm.

#### SECTION 2-704-2.4 REAPPOINTMENT.

Commissioners are eligible for reappointment upon dual concurrence by Tribal President and Tribal Senate. The Business Committee of the Tribal Senate is responsible for evaluating the performance of Committee Appointees during the second year of every term.

#### SECTION 2-704-2.5 COMPENSATION.

Commissioners may be compensated depending upon available finances, allocation with the Annual Tribal Budget and dual authorization by Tribal President and Tribal Senate.

- A. Commissioners receiving compensation must have completed employment documentation submitted to Tribe.

#### SECTION 2-704-2.6 REMOVAL OF COMMISSIONERS.

Commissioners may be removed with the approval of Tribal President and a majority vote of Tribal Senate.

#### SECTION 2-704-2.7 REQUIREMENTS.

The Commission shall answer to the Tribal President and Tribal Senate. It is the responsibility of the Commission to ensure all reports and other documents are submitted to the Tribal President and the Finance Committee for review. The Commission shall evaluate the performance of the corporation as well as the CEO and CFO. It is the responsibility of the Commission to be innovators by making business recommendations including, but limited to, new businesses, leases, contracts and other agreements, to the Tribal President.

#### SECTION 2-704-2.8 RESTRICTIONS.

The Commission is given the authority to make business decisions involving less than \$250,000. Should business decisions involve more than \$250,000 but less than \$500,000, the Commission shall receive approval and authorization from the Tribal President. All business decisions totaling above \$500,000 shall be presented to and authorized by both the Tribal President and Tribal Senate. Business decisions for larger sums must be approved in accordance with the Constitution and Tribal Code.

#### SECTION 2-704-3.1 TATAVIAM COMMERCE CORPORATION, PURPOSE OF.

To serve as the parent Corporation from which all tribally owned businesses stem from. The Corporation does not regulate any form of Tribal Government nor its affairs.

#### SECTION 2-704-3.2 CORPORATION STRUCTURE.

In order to provide for the business infrastructure of the Tribe's business, the Tribal Commerce Corporation shall be composed of one C.E.O. responsible for the day to day executive management of the Corporation, plus and all, at-need staff or at-will staff unless otherwise restricted by the Tribal Government. All positions may be established with the approval of Business Committee and in accordance with financial capabilities as deemed necessary by Tribal Commission.

- A. The C.E.O position. This position shall report directly to the Tribal Commerce Commission. The C.E.O. shall be responsible for the day-to-day management of the acquired executive team and subsequent prosperity and development of the team to ensure the success of all tribal commerce in and under the Tribal Commerce Corporation.

#### SECTION 2-704-3.3 REQUIREMENTS.

The Corporation is responsible for the following:

- A. Maintain the day-to-day operations of the Corporation business;



- B. Complete any and all reports deemed necessary by the Tribal Government or the Commission including, but limited to potential growth for business, fiscal management, quarterly reports;
- C. Responsible for the hiring of a workforce;
- D. Defining an internal control;
- E. Developing marketing strategies;
- F. Managing human resources;
- G. Adhering to an authorized union agreement;
- H. Creating new business proposal for recommendation to the Commission;
- I. Developing a responsible pay structure for the employees of the Corporation;
- J. The C.E.O. and all staff shall operate lawfully and enforce corporate policy in compliance with, and in accordance to corresponding local, state, federal and Tribal laws in location to which any given business is geographically located and or operates.

#### SECTION 2-704-3.4 RESTRICTIONS.

- A. To terminate a business(es), the CEO shall make the recommendation to the Commission accompanied with a report supporting the reasoning for such action.
- B. All business decisions totaling over \$100,000 must be recommended to the Commission.

#### SECTION 2-704-3.5 REMOVAL OF CEO AND OTHER EXECUTIVE STAFF.

Any unlawful activity, financial detriment, sabotage or other damaging action performed, allowed, condoned, or affected as a result of direct negligence by the C.E.O, at-need staff, or at-will employees shall be cause for immediate review and investigations by the Commerce Corporate Commission and shall be course for termination and grounds for legal prosecution.

### **ARTICLE C FERNANDEÑO TATAVIAM ELECTION COMMISSION**

#### **SECTION 2-705-1.1 ELECTION COMMISSION ESTABLISHED; MEMBERS.**

The Election Commission shall be composed of three (3) tribal members appointed by the President with the advice and consent of the Tribal Senate. All must be members of the Tataviam Tribe and reside in the Tribal boundaries. (There shall be one member from each of the two voting districts of the Tribe and one member may be selected at large from any of the two districts.) The Election Commission shall be authorized to act in a prescribed manner and to perform prescribed acts as set forth in this Article D and in Section 5 of the Fernandeno Tataviam Tribal Code. The Commission shall be within the Executive Department; however, the Commission shall make its decisions in the performance of its statutory duties and authority without input, advice or interference from any of the three departments of tribal government, any officer or employee thereof, or any other person not sitting on the Commission.

### **SECTION 2-705-1.2 QUALIFICATIONS OF MEMBERS.**

Employees of the Fernandño Tataviam shall not be eligible for appointment as a member of the Election Commission. No Current elected official of the Fernandño Tataviam, nor any person who is related within the third degree (this is defined as Mother, Father, Brother, Sister, Aunt, Uncle, Nephew, Niece, Grandparents, or Grandchildren) by either consanguinity or Affinity to an elected official or an employee of the Fernandño Tataviam, including any corporation, agency or other entity which is at least fifty-one percent (51%) owned by the Fernandño Tataviam, shall serve on the Election Commission. No Candidate or regular employee of a Candidate for office or person who is related within the third degree by either consanguinity or Affinity to a Candidate for office shall serve on the Election Commission.

### **SECTION 2-705-1.3 TERM OF OFFICE.**

Members of the commission shall hold three (3) year terms. In the event of an expansion of the number of Election Commission seats, the existing Election Commission members will stagger the terms of the newly created seats using the most fair and equitable method in keeping with the language and intent of this Section. A term year will be deemed to run from January 1 - December 31. Commissioners shall be reappointed, or a replacement shall be appointed, at least sixty (60) days prior to the expiration of the term. Replacements for death or resignation must be done on an as needed basis and in a timely manner.

### **SECTION 2-705-1.4 DUTIES OF COMMISSION.**

A. The Election Commission and Election Secretary shall conduct all elections of the Tribe. In keeping with such duties, the Election Commission shall have the following rights and responsibilities:

1. Upon a Candidate filing, the Commission shall make a determination of the eligibility of said Candidate pursuant to the Constitution and the Code. The eligibility determination shall be made within five (5) days of the close of the Candidate filing period.

The basis for this decision shall include:

- a. A verifiable determination that the Candidate lives within the boundaries of the Fernandño Tataviam;
  - b. A criminal background check in the county, state and any other available resources;
  - c. A completed application for candidacy; and
  - d. Any such other requirements under the Code or Constitution.
2. If needed, hire independent legal counsel for consultation. Counsel shall be someone who is not used by the Nation in any other capacity. The Commission may also use any available technology and/or any necessary consulting services in order to perform their duties in the most efficient and just method possible.
  3. Set general policy to be carried out by the Election Secretary/Tribal Registrar.

4. Assist the Tribal Senate in developing rules and regulations necessary to conduct Fernandeno Tataviam elections as requested.
5. Conduct all election recounts pursuant to this Article D and Section 5 of the Fernandeno Tataviam Tribal Code.
6. Engage in any other activities for the performance of its responsibilities as required by the provisions of this Code.
7. Attend orientation and training for existing and new members.
8. Maintain good working knowledge of Current election rules and regulations.
9. Take any and all steps to insure that all Candidates are treated fairly with regard to the election processes and access to accurate Voters Lists.
10. Hold hearings and issue written rulings on challenges to candidacy and voting privileges.

B. Any violation of this Section by any member of the Commission may be grounds for removal from office.

#### **SECTION 2-705-1.5 APPOINTMENT OF ELECTION SECRETARY/TRIBAL REGISTRAR.**

An Election Secretary/Tribal Registrar shall be a single part-time position appointed by the President and confirmed by the Tribal Senate. Legislative confirmation shall be required of any person serving as Election Secretary/Tribal Registrar on an interim basis. If possible, appointments of Election Secretary/Tribal Registrars shall be made at least sixty (60) days prior to the year's upcoming elections. The Election Secretary/Tribal Registrar shall be a registered Tataviam Voter and a notary public and shall be responsible for the day-to-day office procedures of the elections and tribal registration as defined in Title 8 of the Fernandeno Tataviam Tribal Code. The Tribal Senate shall establish the salary.

#### **SECTION 2-705-1.6 SUPERVISION OF BALLOT COUNTING.**

- C. The Election Commission and Election Secretary/Tribal Registrar shall conduct and supervise the election ballot counting in the Tribe's headquarters as prescribed in this Article C and Section 5 of the Fernandeno Tataviam Tribal Code.
- D. The Election Secretary/Tribal Registrar and one (1) Commissioner or two (2) Commissioners shall have the authority to determine the validity of signatures on the election envelopes.
- E. The Election Commission shall ensure each Voter casts that only one ballot.

#### **SECTION 2-705-1.7 METHODS FOR SEALING BALLOTS; CERTIFICATES; RETURN AND PRESERVATION.**

The Election Secretary/Tribal Registrar and Election Commission shall prescribe methods of sealing all ballots, all certificates of vote, and all other materials used in recording the count of the ballots in such a manner that any tampering with or altering of same after the sealing has

been accomplished can be detected. The Election Commission shall have such other duties as provided in this Code on return and preservation of ballots.

**SECTION 2-705-1.8 BID SOLICITATION.**

- F. The Election Secretary/Tribal Registrar shall solicit and receive contract negotiation bids to include the cost of ballot counting, printing and mailing of ballots, envelopes, instructions and other material or services needed to conduct a tribal election. These bids shall come from reputable independent sources. No bids shall be accepted from a source that in any form could be construed to reflect on the integrity of the election.
- G. The Election Secretary/Tribal Registrar shall, in the beginning of each calendar year, solicit bids to either contract with a professional firm that specializes in managing election processes for governmental entities. The firm will be one that is not associated or has not been associated with the Fernandeano Tataviam at the time of the passing of this law. Selections will also be made on the basis of the best and lowest bid from capable election firms.
- H. The Tataviam Election Secretary/Tribal Registrar shall submit his recommendation to the Fernandeano Tataviam Tribal Senate of the firm chosen to assist in the conduction of tribal elections.

**ARTICLE D**  
**FERNANDEÑO TATAVIAM INDUSTRIAL DEVELOPMENT COMMISSION**  
Tribal Senate shall set forth

**ARTICLE E**  
**PUKUU, CULTURAL COMMUNITY SERVICES, INC.**

The Fernandeno Tataviam Tribal Senate hereby approves the adoption of a Charter of Incorporation for a tax exempt, not-for-profit corporation for the Fernandeno Tataviam, and presents it to the President of the Fernandeno Tataviam for submission to a vote of the electorate in accordance with the State of California under the Division 2, California Corporation Code.

**SECTION 2-707-1.1 AUTHORIZATIONS.**

The Fernandeno Tataviam desires to create a corporation with the following authorizations:

1. The Charter shall establish the Pukuu, Cultural Community Services, Inc., a Federally Chartered Non-Profit Business Corporation in the State of California (hereinafter, "Corporation").
2. The Corporation shall be a distinct legal entity pursuant to Section 501(c)(3), wholly owned by the Fernandeno Tataviam Band of Mission Indians.
3. The Corporation shall have the same immunity from taxation under federal law as charitable organization of the Fernandeno Tataviam.
4. The Corporation shall be empowered to engage in any type of lawful business, enterprise or venture, or any lawful act or activity for which non-profit corporations may be organized under the Division 2, California Corporation Code.
5. The Corporation shall be empowered to have and exercise all powers incidental, necessary or convenient to the conduct of corporate business, not inconsistent with law.
6. The Corporation shall be empowered to sue in its corporate name and, notwithstanding the immunity possessed by the corporation as a wholly owned corporation of the Fernandeno Tataviam Band of Mission Indians, to permit by written resolution of the Board of Directors enforcement of leases, contracts, agreements and mortgage instruments to which the Corporation is a party, against the corporation in tribal court, or any court of competent jurisdiction by agreement of the Board of Directors; provided, however, that any limited waiver of sovereign immunity granted by the charter does not authorize the levy of any judgment, lien, garnishment or attachment upon any property or income of the Corporation, the Fernandeno Tataviam Band of Mission Indians, or any agency thereto, other than property or income of the Corporation specifically and in writing duly mortgaged, pledged or assigned as collateral for the debts or liabilities of the corporation related to the lease, contract, agreement or mortgage instrument to be enforced. The limited waiver of sovereign immunity granted in the charter may not be intended to nor shall it be construed to waive the immunity of the Corporation, the Fernandeno Tataviam or any agency thereof, for any other purpose with respect to any claim or other matter not specifically mentioned therein, and shall not be intended to, nor shall it extend to the benefit of, any person other than the parties to such leases, contracts,

agreements or mortgage instruments or their successors or assigns.

7. The corporate powers and authorities of the Corporation shall be vested in a board of directors, which shall consist of nine (9) directors who four (4) shall be appointed by the Tribal President.
8. The Corporation Articles of Incorporation filed with the State of California shall state the Fernandeno Tataviam Band of Mission Indians have ownership and the authority to appoint members to the Board of Directors.
9. The Corporation shall be empowered to make distributions, including dividends, to the Fernandeno Tataviam.

#### **SECTION 2-707-1.2 APPROVAL.**

Tribal Senate approved the formation of the Corporation on March 13, 2000, and approved the Corporation Amended By-laws on September 25, 2005.

### **ARTICLE F**

#### **TATAVIAM LAND CONSERVANCY**

The Fernandeno Tataviam Tribal Senate hereby approves the adoption of Articles of Incorporation for a tax exempt, not-for-profit corporation for the Fernandeno Tataviam, and presents it to the President of the Fernandeno Tataviam for submission to a vote of the electorate in accordance with the State of California under the Division 2, California Corporation Code.

#### **SECTION 2-708-1.1 AUTHORIZATIONS.**

The Fernandeno Tataviam desires to create a non-profit corporation with the following authorizations:

1. The Tribe shall establish the Tataviam Land Conservancy, as a California state non-profit corporation the primary purpose of which will be the acquisition of land within the traditional territory of the Fernandeno Tataviam for conservation and protective land management, cultural enrichment, and educational programming.
2. The Conservancy shall be a distinct legal entity pursuant to Section 501(c)(3), distinct from the Fernandeno Tataviam Band of Mission Indians.
3. The corporation will be a nonprofit public benefit corporation and will not be organized for the private gain of any person. The corporation will be organized exclusively for charitable, religious, educational, and scientific purposes under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.
4. The specific purpose of the corporation will include without limitation, to protect and maintain in perpetuity lands within the traditional territory of the Fernandeno Tataviam people through conservation and protective land management strategies, cultural

enrichment programming, and education of tribal/Native American youth, tribal people, and the general public.

5. The Conservancy will be organized as an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that is organized for the care, teaching, or training of Native Americans. The Conservancy shall be empowered to engage in any type of lawful business, enterprise or venture, or any lawful act or activity for which non-profit corporations may be organized under the Division 2, California Corporation Code.
6. The Conservancy shall be empowered to have and exercise all powers incidental, necessary or convenient to the conduct of corporate business, not inconsistent with tribal, state, and federal law.
7. The Conservancy shall be empowered to sue in its corporate name and, to permit by written resolution of the Board of Directors enforcement of leases, contracts, agreements and mortgage instruments to which the Conservancy is a party, against the corporation in tribal court, or any court of competent jurisdiction by agreement of the Board of Directors.
8. The corporate powers and authorities of the Conservancy shall be vested in a Board of Directors, which shall consist of not less than five (5) or more than thirteen (13); the exact authorized number to be fixed, within these limits, by resolution of the Board. The Board shall consist of at least one (1) member of the Fernandeano Tataviam Land Committee. At no time shall less than 51% of the board of directors be Native American. The Tribal President shall appoint three (3) members to the board with the concurrence of Tribal Senate.
9. The governing laws of the Fernandeano Tataviam shall have full force and effect over the lands acquired by the Conservancy in addition to applicable state and federal laws.
10. The Conservancy shall not enter any agreements regarding disposition of land within traditional Fernandeano Tataviam territory without consultation and consensus from the Tribe.
11. Upon the dissolution or winding up of the Conservancy, its assets remaining after payment, or provision for payment, of all debts and liabilities shall be distributed to the Fernandeano Tataviam Band of Mission Indians.

## **SECTION 2-708-1.2 APPROVAL.**

The Fernandeano Tataviam Tribal Senate reviewed the Tataviam Land Conservancy's corporate documents and approved the formation of the Conservancy on February 24, 2019. Further, the Fernandeano Tataviam Tribal Senate supported the Conservancy's filing of federal and California applications for tax exemptions and ratified prior actions taken by the Conservancy to obtain such exemptions on February 24, 2019.