



**HABEMATOLEL POMO OF UPPER LAKE**

**TITLE I. TRIBAL GOVERNANCE**

**CHAPTER 5. CODIFICATION CODE**

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## ARTICLE 1. SHORT TITLE

This chapter shall be titled the Habematolel Pomo of Upper Lake Codification Code and may be cited as the HPUL Codification Code. This chapter shall be codified as Chapter 5 of Title 1 of the Habematolel Pomo of Upper Lake Book of Codes.

## ARTICLE 2. PURPOSE

The purpose of this Chapter is to establish the procedure by which the Executive Council may codify the law of the Tribe.

## ARTICLE 3. JURISDICTION

The Habematolel Pomo of Upper Lake Tribal Court shall have authority to adjudicate cases regarding the codification of the Book of Codes. If no Tribal Court is in operation, the Executive Council, or its express designee, shall act as the Tribal Court for all references within this Chapter.

## ARTICLE 4. GENERAL

### SECTION 4.1. DEFINITIONS

Unless otherwise specifically defined in another Code, the following terms shall have the meanings in Tribal law as ascribed below:

- (A) **“Book of Codes”** shall mean the compilation of Codes and Ordinances enacted by the Executive Council and any legislation adopted pursuant to the Initiative and Referendum provisions of Article XIV of the Constitution that would have the same legislative impact of a Code or Ordinance as compiled and updated pursuant to this Codification Code;
- (B) **“Chapter”** shall mean this Chapter 5. Codification Code;
- (C) **“Code”** shall mean any regulation enacted by the Executive Council regarding matters such as, but not limited to, business, environmental, jurisdiction, health, education, and welfare;
- (D) **“Executive Council”** shall mean the governing body of the Habematolel Pomo of Upper Lake;
- (E) **“Inter-Sovereign Agreements”** shall mean those agreements between the Tribe and another sovereign such as the federal government, a state government, a foreign nation, or any subdivision thereof, such as a county or city;
- (F) **“Motions”** shall mean decisions of a temporary nature or relating to particular individuals, officials or committees, made either in person at duly called meetings or with use of technological aids.
- (G) **“Ordinance”** shall mean any final decision on matters of general and permanent interest to

members of the Tribe such as the Enrollment Ordinance or the Election Board Ordinance;

- (H) **“Reservation”** shall mean all lands within the exterior boundaries of the Habematolel Pomo of Upper Lake Reservation located in Lake County, California and all lands owned by the Tribe both fee and non-fee land and lands held in trust for individuals and all lands considered “Indian lands” under federal, state or tribal law;
- (I) **“Resolutions”** means all final decisions on matters of short-term or one-time interest where a formal expression is need;
- (J) **“Secretary”** means the Secretary of the Executive Council;
- (K) **“Tribal Enactments Register”** means the official record of original actions taken by the Executive Council stored pursuant to this Codification Code in the Tribal Electronic Archives;
- (L) **“Tribal Court”** shall mean the Habematolel Tribal Court established pursuant to Tribal Ordinance. If a Tribal Court is not in operation, the Executive Council or their designee shall operate as the Tribal Court;
- (M) **“Tribe’s Electronic Archives”** shall mean the electronic location, as designated by the Executive Council, where the Secretary shall store electronic information related to actions taken by the Executive Council under this Code to secure backups and to prevent the loss of tribal legislative history.
- (N) **“Tribal Enactments”** shall mean all Codes, Ordinances, Motions and Resolutions enacted by the Executive Council.
- (O) **“Tribal Member”** shall mean an enrolled member of the Habematolel Pomo of Upper Lake;
- (P) **“Tribe”** shall mean the Habematolel Pomo of Upper Lake, a federally- recognized Indian tribe, or an authorized official or agency thereof;

## **SECTION 4.2. RULES OF CONSTRUCTION**

In determining the meaning of any Tribal Enactment passed by the Executive Council, unless the context indicates otherwise:

- (A) words importing the singular include and apply to several persons, parties, or things;
- (B) words importing the plural include the singular;
- (C) words importing the either gender include all other genders as well; and
- (D) words used in the present tense include the future as well as the present.

**SECTION 4.3 SAVING CLAUSE OF REVISED STATUTES**

All actions taken by the Executive Council prior to the enactment of this Codification Code shall be valid regardless of whether they followed the provisions of this Code; and the use of terminology regarding "Ordinance" and "Code" shall be addressed per the provisions of this Code by substituting the appropriate term during codification.

**ARTICLE 5. PROCESS FOR TRIBAL ENACTMENTS**

**SECTION 5.1. VALIDITY VIA MEETING VOTE**

To be a valid enactment of the Tribe all Codes, Ordinances, Motions and Resolutions shall:

- (A) Be voted on by a quorum of the Executive Council at a legally called session or by technological aids.
- (B) Be dated and numbered
- (C) Include a certification at end of the document as follows:

**"CERTIFICATION**

As a duly-elected official of the Habematolel Pomo of Upper Lake, I do hereby certify that, at a meeting duly called, noticed, and convened on the [day] day of [Month], [Year], at which time a quorum of \_\_ was present, \_\_\_\_\_ was duly adopted by a vote of \_\_ FOR, \_\_ AGAINST, \_\_ ABSTAINED, and said Chapter has not been rescinded or amended in any form.

\_\_\_\_\_  
Executive Council Chairperson

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Tribal Secretary

\_\_\_\_\_  
Date"

**SECTION 5.2. VALIDITY VIA POLL VOTING**

- (A) A poll vote is a vote by the Executive Council on a motion or resolution taken outside of a legally called session of the Executive Council, conducted by telephonic, electronic or digital means and is recorded in similar or handwritten form for consideration and ratification at the next duly called Executive Council meeting or as soon as possible

thereafter.

- (B) Motions and resolutions adopted by poll vote take effect immediately but will be invalidated if they are not confirmed at the next duly called session of the Executive Council or as soon as possible thereafter.

### **SECTION 5.3. CODES AND ORDINANCES**

All Codes and Ordinances shall follow a different enactment and recording process and shall be embodied in a “Book of Codes” as described in this chapter below.

### **SECTION 5.4. MOTIONS**

Motions must be noted in the minutes of respective meeting and include who made the Motion and the results of the voting on the Motion. Motions enacted by Poll vote will be recorded on a form indicating the results of the voting on the motion. All Motions shall be added to the Tribal Enactments Register.

### **SECTION 5.5. RESOLUTIONS**

Resolutions shall begin with a series of clauses that begin with the word “whereas” that explain the Tribe’s general authority to enact the Resolution and the reasons for the particular Resolution being enacted. The resolving clauses of all Resolutions indicate what action the Executive Council is taking and shall be in the following form: “Now therefore be it resolved that: \_\_\_\_\_.” All Resolutions shall be added to the Tribal Enactments.

### **SECTION 5.6. NUMBERING MOTIONS AND RESOLUTIONS**

- (A) All Motions and Resolutions, including those adopted by Poll votes, shall be numbered using the same format by date [YY-MM-DD] then sequence [XX] of the next Motion or the Resolution. The number of the Motion or Resolution shall be preceded by the phrase “Motion #” or “Resolution #” respectively. The date and sequence shall be divided by a dash.

- (B) For example:

Motion # 21-10-09-01

Motion # 21-11-27-02

Resolution #21-10-22-01

Resolution #21-12-05-02

### **SECTION 5.7. TRIBAL ENACTMENTS REGISTER**

- (A) The Secretary is responsible for maintaining the Tribal Enactments Register.

- (B) The Tribal Enactments Register is the official list and record of all actions taken by the Executive Council and shall include all Resolutions, Motions, including those adopted by poll vote, enacted each annual session of the Executive Council.
- (C) The Register shall contain separate sections for Resolutions and Motions.
- (D) The Register shall indicate the date of the meeting with the enactment was considered or the poll vote was confirmed.
- (E) All Resolutions and Motions shall be organized by date and number.
- (F) The Tribal Enactments Register shall be saved in the Tribe's Electronic Archives.

### **SECTION 5.8. FORMATTING FOR TRIBAL ENACTMENTS**

The Executive Council may adopt a format template for each type of Tribal Enactment. All Tribal Enactments shall use Times New Roman 12-point font for the body of the document. All Tribal Enactments shall include only one space after the end of each sentence in the body of the document.

## **ARTICLE 6. TRIBE'S ELECTRONIC ARCHIVES**

### **SECTION 6.1. CONTENTS**

The Tribe's Electronic Archives shall contain the following:

- (A) Meeting minutes
- (B) Poll votes
- (C) Resolutions

### **SECTION 6.2 ORGANIZATION**

- (A) The Secretary is responsible for maintaining the Tribe's Electronic Archives.
- (B) Each Tribal Enactment after the adoption of this Codification Code shall have (1) the official electronic version of the certified document in an image format such as PDF; and (2) an unofficial editable electronic version in a word processing program, like Microsoft Word.
- (C) The Secretary shall create an electronic version of each document and all relevant attachments either by working directly in an electronic format or by scanning a paper version of each document to be added to the Tribe's Electronic Archive.
- (D) The Secretary shall store and maintain the Tribes Electronic Archives in the Tribe's cloud



based electronic file storage.

- (E) For meeting minutes, poll votes and resolutions: files will be added to electronic file folders which shall be organized by year. Each year's folder shall contain one subfolder folder for each type of document. Files shall be added to the subfolder by type of document: Minutes, Resolutions, or Poll votes.
- (F) For example:  
  
Folder: 2021  
Subfolder: Minutes

### **SECTION 6.3 NAMES OF ELECTRONIC FILES**

- (A) Each electronic file name shall indicate the Motion or Resolution number, and the name or subject of the document and each word shall be separated by a dash:
- (B) For example:  
  
Motion-21-10-09-01-Approve-Important-Subject  
Motion-21-11-27-02-Approve-Resolution-21-10-22-01  
  
Resolution-21-10-22-01-Adopt-Codification Code  
Resolution-21-12-05-002-Amend-Judicial Code
- (C) Files being added to the Book of Codes have a separate naming process.
- (D) The version of a particular action taken by the Executive Council that is stored in the Tribe's Electronic Archives shall control in the event of a conflict with the Book of Codes, and the Book of Codes shall be updated to correct the discrepancy.

### **SECTION 6.4 ACCESS TO THE TRIBE'S ELECTRONIC ARCHIVES**

The Secretary shall allow anyone in the General Membership of the Tribe to inspect the Tribe's Electronic Archives by making an appointment during normal business hours. Otherwise, the Tribe's Electronic Archives will not be generally available to the public. The Executive Council may elect to release specific enactments of the Tribe to the public via the Tribe's public website or another method at their discretion.

## **ARTICLE 7. THE BOOK OF CODES**

### **SECTION 7.1. PREPARATION OF THE BOOK OF CODES**

The Secretary, with the assistance of legal counsel appointed by Executive Council, shall prepare for the approval of the Executive Council the Book of Codes in a format approved by the Executive Council. The Book of Codes must be approved by the Executive Council by a

Resolution before publication. The Book of Codes may include a preamble to introduce the Tribe's legal organizational structure. The Book of Codes must include a table of contents listing the titles and chapters contained in the Book of Codes.

## **SECTION 7.2. SUPPLEMENTS**

The Secretary, with the assistance of legal counsel approved by the Executive Council, shall supplement the Book of Codes to reflect further legislative actions taken by the Executive Council or any laws enacted or updated through the initiative and referendum provision of Article XIV of the Constitution and the most current version of the Constitution of the Habematolel Pomo of Upper Lake. Upon approval by the Executive Council, the Secretary may utilize the services of a professional code publication company.

## **SECTION 7.3. NUMBERING AND CITING CODES AND ORDINANCES**

(A) All Motions and Resolutions shall be numbered using the same format by title number in which they belong and chapter number. The title and chapter number shall be divided by a dash.

(B) For example:

Long number format: Title 1 Tribal Governance-Chapter 5 Codification Code

Short number format: 1-5

(C) Ordinances and Codes can be cited to as the abbreviation for Book of Codes, "BOC" followed by the short number format.

(D) For Example:

BOC 1-5

## **SECTION 7.4. ORGANIZATION OF THE BOOK OF CODES**

(A) The Book of Codes shall be organized into a hierarchy of subject headings, known as titles, designated by the Executive Council. Each title shall be named according to the broadest subject heading and contain all related Codes and Ordinances organized into chapters. Each chapter is composed of relevant sections and subsections.

(B) The Secretary shall add an editable electronic version of each Ordinance or Code to the Tribe's Electronic Archive into a separate folder called Book of Codes upon approval by the Executive Council. The Book of Codes Folder shall contain a subfolder for each title. Files shall be added to the subfolder for the subject matter that they relate to.

(C) Each electronic file name shall indicate the number in the short number format, then the name or subject of the document, followed by the date enacted or amended (YYYY-MM-DD). Each word shall be separated by a dash:

(D) For example:

1-5-Codification-Code-2021-10-09

## **SECTION 7.5. PUBLICATION OF THE BOOK OF CODES**

The Executive Council shall cause to be published the Book of Code in an electronic format generally accessible through the Tribe's website including any required supplements to the Book of Codes in prompt manner so as to continuously allow the general public to determine the state of any particular Ordinance or Code of the Tribe. Only non-editable version (ex: pdf versions) of the codes shall be published to the Tribe's website.

## **SECTION 7.6. TITLES OF BOOK OF CODES**

The following titles of the Habematolel Book of Codes are enumerated below:

Constitution

Title 1. Tribal Governance

Title 2. Judicial

Title 3. Public Peace and Safety

Title 4. Family Relations and Wellness

Title 5. Commerce

Title 6. Finance

Title 7. Employment

Title 8. Gaming

Title 9. Land Use

Title 10. Civil

## **ARTICLE 8. INTER-SOVEREIGN AGREEMENTS**

### **SECTION 8.1. NUMBERING INTER-SOVEREIGN AGREEMENTS**

(A) All Inter-Sovereign Agreements shall be numbered using the same format by the by date [YY-MM-DD] then sequence [XX] of the next ISA. The number of the Inter-sovereign Agreement shall be preceded by the phrase "ISA #". The year and sequence shall be

divided by a dash.

(B) For example:

ISA # 21-11-26-01

ISA # 22-12-23-02

## **SECTION 8.2 STORAGE INTER-SOVEREIGN AGREEMENTS**

(A) The Secretary shall add an electronic version of each Inter-sovereign Agreement to the Tribe's Electronic Archives.

(B) All Inter-sovereign Agreement shall be stored and organized into a hierarchy of subject heading folders. Each folder shall be named according to the broadest subject preceded by the phrase "ISA" as enumerated below:

ISA-Public Peace and Safety

ISA-Family Relations and Wellness

ISA-Commerce

ISA-Finance

ISA-Gaming

ISA-Land Use

ISA-Civil

## **SECTION 8.3 ACCESS TO INTER-SOVEREIGN AGREEMENTS**

The Secretary shall allow anyone in the General Membership of the Tribe to inspect the Tribe's Electronic Archives by making an appointment during normal business hours. The Executive Council may elect to release specific ISA's of the Tribe to the public via the Tribe's public website or another method at their discretion.

## **ARTICLE 9. OTHER PROVISIONS**

### **SECTION 9.1. SOVEREIGN IMMUNITY**

Nothing in the provisions of this Chapter constitutes consent by the Habematolel Pomo of Upper Lake or its sub-organizations to be sued in any court. Neither this Title nor any action (or inaction) taken by the Habematolel Pomo of Upper Lake or its sub-organizations pursuant to this Title represents a waiver of the Tribe's sovereign immunity for any purpose.

**SECTION 9.2. AMENDMENTS**

This Chapter, or any section herein, may be amended by a majority vote of the Executive Council.

**SECTION 9.3. SEVERABILITY**

If any part of this Chapter is found void and without legal effect, the remainder of the Chapter shall continue to remain in full force and effect, as though such part had not been contained therein.

**SECTION 9.4. EFFECTIVE DATE**

This Chapter shall take effect on the date it is approved by the Executive Council.

**CERTIFICATION**

As a duly-elected official of the Habematolel Pomo of Upper Lake, I do hereby certify that, at a meeting duly called, noticed, and convened on the 4 day of February, 2022, at which time a quorum of 7 was present, Chapter 5. Codification Code was duly adopted by a vote of 6 FOR, 0 AGAINST, 1 ABSTAINED, and said Chapter has not been rescinded or amended in any form.

*Mary Jo Lipp*  
Executive Council Chairperson

02/04/2022  
Date

ATTEST:

*Carol C. Menoz*  
Tribal Secretary

02/04/2022  
Date

