



November 24, 2025

Dear Tribal Member,

KENAITZE
INDIAN
TRIBE

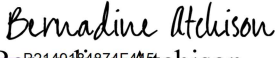
We write to describe proposed changes to the Kenaitze Indian Tribe’s TERO Ordinance 2017-01, which was originally established on May 12, 1986. After reviewing the current version of the Ordinance that was proposed by the TERO Pillar in March of this year, it became clear that while this revised version may have reflected lofty goals and visions for our TERO Commission, it did not match our actual practice, leading to confusion and contradiction. We therefore have comprehensively edited the Ordinance to reflect how our TERO has functioned since 2017 to provide clarity to our Tribal members, prospective contractors and those doing business with the Tribe. Using these established TERO procedures, we have increased our Tribal hire percentage to 57%, the highest in our Tribe’s history and according to our TERO Consultant, one of the highest among all the Tribes he works with in both Alaska and the Lower 48. We are proud of the increase in our Tribal hire and ability to provide beneficial employment for our Tribal members.

Pursuant to the Administrative Procedures Ordinance 2017-02, a 30 day Tribal Member comment period must be provided before an ordinance may be amended and restated by Tribal Council. This notification of comment period is being provided in accordance with this ordinance, along with a revised copy of TERO Ordinance 2017-01 for you to review the proposed revisions. An electronic copy of the revised ordinance may be viewed on the KIT website at www.kenaitze.org.

The Tribal Council is pleased to provide this opportunity for Tribal Member input, and we ask that you do so by December 24, 2025.

Please direct all questions and comments by the deadline provided to Sasha Jackson, Tribal Programs Director, at SJackson@kenaitze.org. You may also direct your questions via phone at (907) 335-7200.

Duk’idli (Respectfully),

Signed by:

Bernadine Atchison
Tribal Council Chair
Kenaitze Indian Tribe

www.kenaitze.org

Phone: 907-335-7200 • FAX: 855-335-8865

P.O. Box 988 • Kenai, AK 99611

KENAITZE INDIAN TRIBE
TRIBAL EMPLOYMENT RIGHTS
ORDINANCE 2017-01



Adopted January 24, 2017
Amended and Restated October 26, 2017
Amended and Restated August 2, 2019
Amended and Restated May 6, 2025

Section 1. Purpose and Establishment of the Tribal Employment Rights Office

The Kenaitze Indian Tribe's ("Tribe") Constitution, Art. X, Sec. 3, provides that the Kenaitze Indian Tribal Council ("Council") shall promote the general welfare of the [Tribe's](#) members⁴ and administer services ~~as may contribute to~~[for](#) the social and economic development of the Tribe and its members.

Like land, water, and minerals, jobs, subcontracts and contracts with the Tribe are an important resource for Tribal members and other Alaska Natives and American Indians. The Tribe must use these resources to obtain its rightful share of such opportunities as they become available. Indians have unique ~~and special~~ employment, subcontract, and contract rights and the Tribe has the inherent sovereign power to pass laws to implement and enforce those special rights on behalf of its Tribal members, Alaska Natives, and American Indians. Alaska Natives and American Indians are also entitled to the protection of the laws that the Federal government has adopted to combat employment discrimination, and tribal governments can and should play a role in the enforcement of those laws. The Tribe believes it is important to establish an employment rights program and commission in order to use these laws and powers to increase employment of Tribal Members, Tribal Member Spouses, Alaska Natives, and American Indian workers and businesses and to eradicate discrimination against Alaska Natives and American Indians.

To carry out this purpose, the Council hereby adopts this Tribal Employment Rights Ordinance ("TERO" or "Ordinance") and establishes the Kenaitze Tribal Employment Rights Commission ("Commission"). This Ordinance is intended to ~~be as broad and encompassing as possible to ensure it covers~~ all employment and contract activities within the Tribe's territory and jurisdiction, and the terms shall be so interpreted by the Commission and the Council, [and by any reviewing Court](#).

⁴~~The TERO Ordinance was established May 17, 1986, rescinded 2016, and amended and restated on October 26, 2017.~~

Section 2. Definitions

The following words and phrases, whenever used in this Ordinance, shall have the following meanings:

- ~~A.~~ ~~“TERO” means Tribal Employment Rights Office.~~
- ~~B.~~A. “Commission” shall mean the Kenaitze Tribal Employment Rights ~~Tribal Council Members and Tribal Members appointed by Tribal Council to carry out the goals as~~ Commission established by this Ordinance 2017-01.
- ~~C.~~B. “Tribal Member” shall mean any person enrolled or eligible for enrollment as a member of the Kenaitze Indian Tribe.
- ~~D.~~C. “Eligible for Enrollment” shall mean any person verified by the Enrollment Committee and awaiting final approval at the Annual Membership Meeting.
- ~~E.~~D. “Tribal Member Spouse” shall mean any person legally married ~~by legal means~~ to a Kenaitze Indian Tribal Member.
- ~~F.~~E. “Alaska Native” shall mean a person who is: (1) an Indigenous Alaskan who is an enrolled member of a Tribe or eligible for enrollment in an Alaska Tribe; or (2) listed on the original Alaska Native Claims Settlement Act (ANCSA) roll.
- ~~G.~~F. “American Indian” shall mean any individual who (1) is enrolled in a federally recognized Tribe outside of Alaska (excluding honorary members); or (2) has been issued a Certificate Degree of Indian Blood (CDIB) by the Bureau of Indian Affairs (BIA) which identifies affiliation with a federally-recognized Tribe outside of Alaska.
- ~~H.~~ ~~“TERO Member” shall mean (1) Kenaitze Indian Tribe member; (2) Tribal Member Spouse; (3) Alaska Native; (4) American Indian; and (5) a person issued a Certificate Degree of Indian Blood (CDIB) by the Bureau of Indian Affairs (BIA) which identifies affiliation with a federally-recognized Tribe outside of Alaska.~~
- ~~I.~~G. “Preference” shall mean the priority given to a qualified Tribal Member, Tribal Member Spouse, Alaska Native, or American Indian which meets the minimum qualification as specified in *Section 6 Employment Preference* of this Ordinance.
- ~~J.~~H. “TERO Designee” shall mean the TERO Director, TERO Manager, or other TERO employee responsible for carrying out the goals and objectives of the TERO Commission and Council.
- ~~K.~~ ~~“TERO Program” shall mean the goals and strategic plan set forth by the TERO Commission upon Council approval.~~
- ~~L.~~I. “TERO Applicant Pool” shall mean Tribal Members, Tribal Member Spouses, Alaska

Natives, and American Indians registered with the ~~TERO Department~~Commission's job pool.

~~M.~~J. "Employee" shall mean a person working for remuneration.

~~N.~~K. "Employer" shall mean any person, partnership, corporation, or other entity that employs for wages, two or more employees.

~~O.~~L. "Covered Entity" shall mean any person, partnership, corporation, and/or its subsidiaries, joint venture, government, government enterprise, contractor, or subcontractor, or any other natural, or artificial person, or organization doing business with the Tribe. The term "Covered Entity" is intended to be interpreted broadly to provide for maximum coverage of this Ordinance. It does not include the Tribe itself.

~~P.~~M. "Artificial Person" shall mean a legal entity that is not a natural person but is recognized by law as having certain legal rights, protections, privileges, responsibilities, and liabilities.

~~Q.~~N. "Tribal contractor, subcontractor, business, or entity" shall mean a contractor, subcontractor, business, or other entity that is 51% or more owned or controlled by a Kenaitze Tribal Member.

~~R.~~O. "Native contractor, subcontractor, business, or entity" shall mean a contractor, subcontractor, business, or other entity that is 60% or more owned or controlled by Alaska Natives or American Indians, who are not Tribal ~~M~~members.

~~S.~~ "~~Variance~~" shall mean ~~a request for a deviation from preference as outlined in TERO Ordinance 2017-01 in hiring practices and/or contracting. In situations where a TERO candidate is closely aligned with, but does not fully meet, the minimum qualifications for a position a pathway or variance may be granted to allow for their consideration under this Ordinance.~~

~~T.~~P. "Immediate family" shall have the same meaning given it in the Tribal Constitution Art. V, Sec. 6, as follows: ~~Immediate family means~~ whether by blood or legal adoption ~~by legal means~~; a father, mother, brother, sister, spouse, son, or daughter.

Section 3. TERO Commission

A. The Council hereby establishes the TERO Commission.

B. The Commission shall be composed of five (5) Kenaitze Tribal Members as commissioners appointed by Council, and shall include ~~with~~ at least one (1) Council Member. The commissioners shall not be employed by the Tribe in any other position, or be an applicant for any position ~~if there is a conflict of interest with the Tribe~~. The Commission shall appoint ~~designate~~ one (1) commissioner to serve as Commission Chair. The commissioners shall serve at the pleasure of the Council for a twofive (25) year staggered term. The Commission Chair may consult with the Executive Director and Tribal Council Chairperson, ~~the Tribe's Legal counsel, or the appropriate~~

~~designee as delegated by the commission as necessary.~~

- C. A majority of the Commission shall constitute a quorum to transact business. When a vacancy occurs ~~o~~in the Commission, the remaining members may exercise all the powers of the Commission until the vacancy is filled by the Council.
- D. The Commission ~~may meet once a month, or as needed and~~shall maintain minutes of each of its meetings ~~s shall be maintained~~.
- E. Commissioners may be removed for cause by Tribal Council. Cause includes, but is not limited to, being absent for three consecutive meetings without reasonable excuse, code of conduct violations, charges including misdemeanors and/or felonies.

Section 4. Powers of the Commission

Subject to the approval and supervision of the Tribal Council, The Commission has ~~the full power, jurisdiction and authority with Tribal Council approval to~~ the following authority:

- A. Review and approve job descriptions for all positions subject to this Ordinance
- B. Implement the hiring preference ~~is~~ given to Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians consistent with this Ordinance
- C. Ensure the contracting preference is given to Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians consistent with this Ordinance
- D. Establish a TERO Applicant Pool consisting of Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians seeking employment opportunities with the Tribe, or on Tribal projects, as well as other employers in the community
- E. Expend such funds as the Council may appropriate to the Commission; collect fees on behalf of the Tribe as provided in this Ordinance; obtain and expend funding from federal, state, or other sources to carry out the purposes of this Ordinance; and be accountable to and report to the Council use of such funds
- F. Identify and develop a plan to combat barriers to Tribal Member, Tribal Member Spouse, Alaska Native, and Federally Recognized American Indian employment
- G. Ensure training, counseling, and support is provided to Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians, coordinate with other appropriate Tribal, local, State, and Federal offices to identify and provide additional resources and assistance
- H. Submit an annual budget request to Tribal Administration for Tribal Council's consideration

- ~~A. — Grant variances for employment based on the requirements of this Ordinance Grant variances for employment based on the requirements of this Ordinance Administer the TERO program of the Kenaitze Indian Tribe in accordance with this TERO Ordinance 2017-01;~~
- ~~B. — Enforce this Chapter, rules, regulations, guidelines, and orders adopted by the Commission, enforce additional Kenaitze Tribal ordinances as designated by Tribal Council.~~
- ~~C. — Conduct hearings in accordance with rules, regulations, guidelines, and orders adopted by the Commission, order relief or sanctions provided for by this Ordinance or other action of the Council, and petition the Tribal Court for orders that are where necessary and appropriate to enforce the decisions of the Commission, and the sanctions they impose.~~
- ~~D. — Implement policies and procedures to effectively administer delegated authority for this Chapter and any other Kenaitze Tribal Ordinances as designated by Tribal Council.~~
- ~~I. —~~
- E.J. Grant waivers for employment based on the requirements of this Ordinance
~~Formulate, adopt, amend, implement, and rescind rules, regulations, and guidelines, policies and procedures as necessary to carry out the delegated administrative duties of the Commission, including those outlined in this Ordinance.~~
- ~~F. — Establish hiring goals and enforce the Tribal Employment Preference for that specify the minimum number of Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians for all Kenaitze Tribal Programs and covered entities that a Covered Entity must hire.~~
- ~~G. — Establish a TERO Applicant Pool consisting of Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians seeking employment opportunities with the Tribe, or on Tribal projects, as well as other employers in the community.~~
- ~~H. — Expend such funds as the Council may appropriate to the Commission; collect fees on behalf of the Tribe as provided in this Ordinance; obtain and expend funding from federal, state, or other sources to carry out the purposes of this Ordinance; and be accountable to and report to the Council use of such funds.~~
- ~~I. — Require each Covered Entity to submit to the Commission an acceptable compliance plan before the Covered Entity may commence work on trust lands within the exterior boundaries of the Kenaitze Tribal territory and jurisdiction.~~
- ~~J. — Require a Covered Entity to establish or participate in training programs as the Commission deems necessary in order to increase the pool of qualified Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized~~

American Indians;

- ~~K. Review policies and procedures to ensure all Kenaitze Tribal Programs and covered entities to abide all Kenaitze Tribal Ordinances in which the Commission has been given delegated authority by Tribal Council. The Commission shall have the ability to update and amend all policies and procedures as necessary to maintain effective administration of all delegated authority.~~
- ~~L. Require Covered Entities to notify and provide the TERO Designee Commission with a job description that has been approved in accordance with the Tribal Employment Preference ordinance of vacancies before advertising the open position(s) when hiring for any position covered by this Ordinance.~~
- ~~M. Require Covered Entities to provide employment numbers of all Tribal Members, Tribal Member Spouses, Alaska Native, and Federally Recognized American Indian applicants to the TERO Designee Commission;~~
- ~~N. Identify and develop a plan to combat barriers to Tribal Member, Tribal Member Spouse, Alaska Native, and Federally Recognized American Indian employment.~~
- ~~O. Impose contract and subcontract preference requirements consistent with this Ordinance.~~
- ~~P. Ensure preference in employment, contracting, subcontracting, and training is given to Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians consistent with this Ordinance.~~
- ~~Q. Ensure training, counseling, and support is provided to Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians, TERO applicants is provided and coordinate with other appropriate Tribal, local, State, and Federal offices to identify and provide additional resources and assistance.~~
- ~~R. Prohibit covered employers from using qualification criteria or other requirements that serve as barriers to Tribal Member, Tribal Member Spouse, Alaska Native, and Federally Recognized American Indian employment unless the employer can demonstrate that such criteria or requirements are required by business necessity.~~
- ~~S. In coordination with the Tribal Council, Aadopt and impose its own requirements in addition to or in lieu of equal opportunity and anti-discrimination guidelines when necessary to address unique qualification problems for Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians.~~
- ~~T. In conjunction with the Tribal Council, Bbe responsible for the hiring and oversight of the TERO Designee.~~
- ~~U.K. Provide monthly ~~quarterly~~ reports to Council including describing the Commission's actions, activities, progress toward meeting goals, ~~financial status,~~ and other information as Council may require e; ~~and~~~~

- ~~V. Recommend to Council the annual operating budget of the TERO Program. Submit an annual budget request to Council for consideration.~~

Section 5. Job Descriptions

- ~~A. The Commission shall have the authority to approve and maintain job descriptions for all positions subject to the TERO Ordinance. This includes ensuring that job descriptions accurately reflect the essential duties, minimum qualifications, required skills, and any physical or educational requirements of each position. The Commission shall periodically review and update job description templates to reflect changes in workforce needs, technology, or regulatory requirements. The Commission may consult with tribal departments other stakeholders as necessary to ensure job descriptions remain current, equitable, and effective in promoting Tribal Member employment opportunities.~~

Section 5. Tribal Employment Rights Office

- ~~A. The Council hereby establishes the Tribal Employment Rights Office.~~
- ~~B. The purpose of the Tribal Employment Rights Office is to carry out the day-to-day operations of the TERO Commission as necessary to ensure fairness and equity in all appeals and grievances.~~
- ~~The Office shall be staffed by the TERO Designee, who will be a Tribal Employee subject to oversight from the Tribe's Administration.~~
- ~~C. The Office shall assist the Commission with its responsibilities listed above in Section 4. Maintain and manage the TERO Applicant Pool consisting of Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians seeking employment opportunities with the Tribe, or on Tribal projects, as well as other employers in the community.~~
- ~~D. Maintain an index of individuals participating in the TERO Applicant Pool with cross-referenced data so that it can effectively be determined whether any individuals in the index meet particular job qualifications.~~
- ~~E. Arrange and schedule resources for training and development of applicants.~~
- ~~F. Ensure current and future processes maintain the intent of the Tribal Employment Preference Ordinance.~~
- ~~G. Based on business demands recommend any increases, or reductions in staffing of the Tribal Employment Rights Office to the Commission.~~
- ~~H. Assist the Commission in any budgetary duties.~~
- ~~I. Recommend policy and procedure changes and updates to the Commission.~~

Section 6. Employment Preference

~~A. The Commission shall review all Kenaitze Tribal Program positions created and solicited through new hire, transfer, promotion to ensure equity and fairness.~~

~~A. All job descriptions and job description updates for Kenaitze Tribal Programs and Covered Entities shall be approved by the TERO Commission to ensure equity and fairness.~~

~~B.A. _____ To the maximum extent permitted by Tribal law, the Tribe and every Covered Entity is required to will give preference to Tribal Members, Tribal Member Spouses, Alaska Natives, and Federally Recognized American Indians in hiring, promotion, training, succession planning, and/or retaining employees.~~

~~C.B. _____ Preference shall be applied in the following order of priority:~~

- ~~1. Tier 1 –Kenaitze Tribal Members.~~
- ~~2. Tier 2 –Kenaitze Tribal Member Spouses.~~
- ~~3. Tier 3 –Alaska Natives~~
- ~~4. Tier 4 –Federally Recognized American Indians~~
- ~~5. Tier 5 –All others~~

~~— If a preferred candidate would be qualified for a position if they received some additional training, that candidate may be selected provided that the additional training required is reasonable and can be offered in sufficient time to fill the position.~~

~~D. Preference shall be given to Tribal Member candidates in any phase of pre-employment or employment needing additional training to meet the qualifications if those qualifications can be met within the “variance plan”.~~

~~E. In the hiring process, the bypass procedure must be completed before reviewing the next tier of applications.~~

~~F. Bypass Procedure~~

~~0. If the hiring manager does not find a viable candidate in the tier of applicants, they must complete and submit a by pass form for each candidate to the TERO Designee.~~

~~0. The TERO Designee will then review the form and approve or deny the by pass.~~

~~0. If the TERO Designee denies the by pass the hiring manager must reconsider the candidate for hire, or they may appeal the TERO Designee’s decision to the TERO Commission.~~

~~0. If the TERO Commission denies the bypass the hiring manager must reconsider the candidate for hire, or appeal to Tribal Council.~~

~~O. The Tribal Council will make the final decision on the bypass.~~

~~O. Only after approval of all bypass forms for a tier of candidates may the hiring manager receive the next tier of applications.~~

~~O. This procedure will be followed for all successive tiers of applications.~~

~~N. When establishing criteria for reduction in force the tier system shall be followed in reverse order.~~

C. The Tribe shall apply its own employment preference pursuant to Tribal law and 25 U.S.C. § 5307(c), in the order of priority laid out in subsection B or as otherwise instructed by the Council.

Section 7. Contracting Application of Preference – Contracting

When soliciting bids or proposals for Covered Entities, and when subsequently making an award, preference shall be applied as follows:

A. The Tribe will give preference to bids or proposals for Covered Entities in the procurement evaluation process by awarding additional points to Tribal and Native contractors in the evaluation of the bid or proposal as follows:

1. 25 additional points for Tribal contractors; or
2. 15 additional points for Native contractors.

~~B. If a Covered Entity is designated for award to the lowest bidder rather than through an evaluation process, the Tribe shall award the contract to the lowest bid or proposal from a qualified Tribal or Native contractor that is within budgetary limits established for the specific project, provided that the Tribal or Native contractor's bid or proposal is not more than ten percent (10%) higher than the lowest bid on any given project and that the overage does not exceed \$100,000 in total.~~

~~C. A required contracting and subcontracting Compliance Plan shall indicate all contracts and subcontracts that will be entered into, and the projected dollar amounts thereof. If the contractor has already selected a subcontractor(s) to perform work, it shall list the name(s) of that subcontractor(s) and indicate whether they are certified as eligible for preference; the contractor shall further indicate why each certified subcontractor technically qualified to perform the work and registered with TERO was not selected, if applicable.~~

~~D. Contractors selected to perform work on Kenaitze Tribal lands shall be required to work collaboratively with the TERO Office Commission to identify and determine if there are qualified workers in the TERO Applicant Pool and provide an opportunity for employment when applicable.~~

- ~~E. The Commission may waive the provisions of this Section 7, and enact a separate ranking system, if application of this Section 7 would compromise, limit, or otherwise negatively affect the Tribe's ability to (1) maintain reasonableness of price; (2) assure the efficient expenditure of contract funds; or (3) comply with any applicable Tribal or federal laws and regulations, or when other circumstances exist that would support a comparable variance under Section 9 of this Ordinance.~~
- ~~F. A compliance plan must be drafted and agreed upon by the contractor to accommodate TERO Job Pool Participants and TERO certified companies and the Commission.~~

Section 8. Certification

- A.** An applicant or entity seeking to qualify for preference in hiring, education, and/or training shall submit proof of the applicant's status of Indian blood or proof of marriage to a Kenaitze Tribal Member, which shall include, but not be limited to:
1. Certification or Tribal enrollment card by a Federally Recognized Indian Tribe.
 2. Certification or enrollment card by an Alaska Native Regional or Village Corporation.
 3. U.S. Bureau of Indian Affairs (BIA) certification of Indian blood (CIB); and/or
 4. Certified copy of marriage certificate to a verified Kenaitze Tribal Member.
- B.** An applicant seeking to qualify as a TERO Certified business shall submit proof of the applicant's Indian ownership, which shall include, but not be limited to:
1. Certification or Tribal enrollment card by a Federally recognized Indian Tribe.
 2. Certification of enrollment card by an Alaska Native Regional or Village Corporation.
 3. U.S. Bureau of Indian Affairs (BIA) certification of Indian blood (CIB);
 4. Certified copy of marriage certificate to a verified Kenaitze Tribal Member.
 5. Certified or notarized copy of company information including [list of owners and membership status of each owner, if more than one](#) degree of Indian blood.
 6. ~~Any corporation, LLC, or other business entity must provide~~ legal documentation of [corporate status, if applicable](#). This documentation must be from the state of formation ~~or be issued by the Kenaitze Tribe.~~
 7. If claiming at least 51% Kenaitze Tribal Member ownership, ~~certified or notarized report on non-Indian partner of the company;~~ [Tribal members](#) and must have been in the partnership, LLC or Corporation with the same

ownership structure for 24 months or longer.

8. Insurance coverage and bonding capabilities; ~~and/or~~
9. Any other pertinent information required by the ~~TERO Department, Legal Department, and/or TERO Commission~~Commission or Council.

Section 9. Variance of Preference

A. The Commission shall have the authority to consider and approve variances to the hiring preference requirements of this Ordinance when a Tribal hiring manager seeks to hire a candidate of less preference –per the requirements of the applicable Tribal policy. Requests for variances must be submitted in writing and must include a detailed explanation of the qualifications required for the position, recruiting efforts, and the reasons why a candidate with less preference is being chosen. The Commission shall review each request and shall recommend the variance for approval or denial to the Council for final determination. All variance decisions shall be documented and made available for review to ensure transparency and accountability. The Commission shall ensure that variances are granted only when necessary and do not compromise the overall goals and intent of the TERO Ordinance.-

Section 10. ~~Waiver~~ of Posting Requirementsof Preference

A. The Commission shall have the authority to consider and approve waivers to the standard posting and recruitment requirements under this Ordinance for vacant or newly created positions when the intent is to internally hire a current employee without posting the position according to applicable Tribal policy. Requests for waivers must be submitted in writing and must include justification for the internal hire, details of the position, and the qualifications of the proposed candidate. The Commission shall review each waiver request, and recommend the approval or denial of the waiver to the Council for final determination. All waiver decisions shall be documented and made available for review to ensure transparency and accountability. The Commission shall ensure that waivers are granted only when such action aligns with the goals and intent of the TERO Ordinance and does not undermine employment preferences laid out in this Ordinance.

~~The Commission may choose to make a recommendation to Council to waive the hiring preference established by this Ordinance, and approve a Variance, or to substitute an alternative preference in its place. Commission members must recuse themselves from any matters related to employment for themselves or immediate family members. They must also refrain from discussion surrounding such matters with any fellow commission members, managers, supervisors, etc. Commission members found in violation of this clause can be removed from the commission with cause.~~

~~A “Variance” Any waiver or alternative preference must be supported by a finding that it:~~

~~0. Was made in good faith upon recommendation from the Commission or an independent determination of necessity by the Council.~~

~~0. Was in the Tribe's best interests.~~

~~0. Was made in response to circumstances requiring such waiver or substitution in a particular project or endeavor.~~

~~0. Would not unfairly discriminate against any Tribal Member, Tribal Member Spouse, Alaska Native, American Indian, or employer; and~~

~~0. Would eradicate further the eradication of the deplorable rate of poverty, eliminate discrimination, and removal of e the historical barriers imposed upon Tribal Members, Tribal Member Spouses, Alaska Natives, and American Indians.~~

Section 10. Fees

~~The Commission shall assess a TERO operational fee on Covered Entities.~~

~~— The TERO Commission shall assess a fee up to 5% of the total gross contract price on all projects equaling \$250,000 or more where the majority of the work under the contract is to be performed within the lands and territories of Kenaitze Indian Tribe. The fee shall be assessed on the entity receiving the contract award. Where a construction or other type of contract involves subcontracting, the entity acting as prime contractor or awarding the subcontracts shall be responsible for paying all fees, including those attributable to the subcontractors. The fee shall be due in full prior to commencement of any work under the contract. However, where good cause is shown, Council may authorize a covered employer to pay said fee in installments over the course of the contract.~~

~~— Kenaitze Indian Tribe covered business enterprises shall be exempt from TERO fees. Where a construction or other contract includes subcontracts with certified Kenaitze Indian Tribe enterprises, the amount of the Kenaitze Indian Tribe business enterprise subcontracts shall be subtracted from the total price before calculating the TERO fee.~~

~~— Such fees shall be used for purposes including, but not limited to, operational costs and program services; employee recruiting, referrals, and screening; job counseling; orientations; employee supportive services; compliance; charge processing; investigations; and education and community awareness concerning employment.~~

~~— Covered entities will pay fees directly to the Tribe.~~

Section 11. Complaints

~~Any Tribal member, Tribal Spouse, or Alaska Native or American Indian employee or applicant who believes that he or she has been discriminated against by a covered entity because they are a Tribal member, Tribal Spouse, Alaska Native, or American Indian, or who believes that a violation of this Ordinance has occurred, may file a written allegation of that violation with the Commission. The filer shall be responsible for providing the Commission with sufficient evidence of the alleged violation to allow for an appropriate investigation. Upon the Commission's own allegation or receipt of a written allegation, the~~

~~Commission shall promptly notify the Council, the Tribe's Administrative leadership, and Legal, and shall initiate an investigation of the alleged violation. The Commission shall establish procedural rules for such investigations and resolution of violations. These rules shall be submitted to Council for approval before they may go into effect.~~

~~Complaint Process:~~

~~—A Tribal Member, Tribal Member Spouse, Alaska Native, or American Indian employee or applicant who believes that he or she has been discriminated against by a Covered Entity because he or she is a Tribal Member, Tribal Member Spouse, Alaska Native, or American Indian, or who believes that a violation of this Ordinance or Tribal Policy has occurred, may file a written allegation of that violation with the TERO Office. During and after the complaint process the Complainant shall be protected and covered under the Kenaitze Tribal Retaliation Policy.~~

~~—A complaint may be communicated in writing or electronically to the TERO Office, who shall acknowledge receipt of the allegations to the complainant and forward to the Human Resources Office, TERO Commission, Legal, and Executive Director within five (5) days of receipt. The complaint shall contain the following:~~

~~0. Name and contact information of the complainant.~~

~~0. Documentation of utilization of Tribal complaint policies and procedures from the Human Resources Office prior to filing a complaint with the TERO Office; and~~

~~0. A completed TERO Complaint Form containing the detailed description of the time, date, and subject matter giving rise to the complaint, and any available documentary evidence in support of the allegations therein, as well as a signature giving authority to the TERO Office to investigate the allegations brought forward in collaboration with the Human Resources Office.~~

~~—Upon receipt of a completed TERO Complaint Form, the TERO Office shall advise the Human Resources Office of the nature of the complaint. In the event a complaint is against the Human Resources Office, the TERO Office shall inform the Executive Director.~~

~~—Within 30 days of receiving a complaint, the TERO Office shall perform a collaborative investigation with the Human Resources Office which shall include individual interviews of the complainant and the individual who is the subject of the complaint ("Subject Member"). During the interviews, the TERO Office and the Human Resources Office shall gather all applicable evidence including but not limited to: Documents, written statements, names of the additional witnesses.~~

~~—The TERO Office shall work collaboratively with the Human Resources Office to ensure the utilization of all current Tribal policies designed to bring resolution to complaints and grievances.~~

~~—The TERO Office, and the Human Resources Office may enlist the assistance of the Executive Director and/or Legal as necessary during the investigation.~~

~~—In the event that the TERO Office and the Human Resources Office find that the allegations set forth in the complaint are not supported by credible and/or sufficient evidence, in part or in whole, the TERO Office and the Human Resources Office shall make a collaborative recommendation to the Complainant in writing for a full dismissal of the unsubstantiated complaint. If substantiated, the Complainant shall follow Substantiated Complaints process.~~

~~Unsubstantiated Complaint Process~~

~~)} If the Complainant agrees to dismissal of the allegations brought forward, then a letter shall be sent to the Subject Member and the Complainant, notifying them that the complaint has been dismissed without prejudice. The dismissal of the complaint shall be reported to the TERO Commission at the next scheduled TERO Commission meeting, as well as to Legal and the Executive Director. A copy of the dismissal shall be filed with the TERO Department, as well as with the Human Resources Department.~~

~~)} In the event that the Complainant does not agree with the collaborative decision of the TERO Office and the Human Resources Office for dismissal of the allegations, the Complainant may request a hearing within thirty (30) days of the official notice with the TERO Commission and shall follow the procedural rules for TERO Commission Hearings, under *Section 12, Hearings*.~~

~~)} Upon request for a Hearing with the TERO Commission, the TERO Office, and the Human Resources Office shall notify the Executive Director, TERO Commission Chair, and Legal that a Hearing has been requested.~~

~~Substantiated Complaints Process~~

~~qq) In the event that the complaint is wholly or partially substantiated, the TERO Office and the Human Resources Office shall provide a written report regarding the substantiated complaint and related investigation findings to the Executive Director and the TERO Commission Chair for consideration in Executive Session at the next scheduled TERO Commission Hearing.~~

~~rr) The TERO Office and the Human Resources Office shall work collaboratively with the Complainant to utilize current Tribal policies to put resolution to the complaint. The TERO Office and the Human Resources Office shall review the requested remedy noted in the TERO Complaint Form and attempt an informal resolution to the Complaint.~~

~~ss) If an informal resolution cannot be achieved, then the Executive Director, Legal, and TERO Commission Chair shall be notified of the request for a Hearing with the TERO Commission under the procedural rules of *Section 12, Hearings*.~~

~~tt) Section 12. Hearings~~

~~uu)~~

~~vv) Hearings shall be governed by the following rules of procedure:~~

~~ww) All Hearings to address complaints shall be held in Executive Session and shall be protected by the confidentiality provisions outlined by Tribal Council, Boards, Commissions, and Committees Code of Conduct and subject to any/all penalties outlined therein.~~

~~xx) The TERO Commission Chair, or designee, shall preside. No formal rules of evidence of procedure need be followed, but the Chair shall proceed to ascertain the facts in a reasonable and orderly fashion.~~

~~yy) The Commission may have the presence of Legal in Executive Session for the purposes of advisement and assistance.~~

~~zz) The Complainant and the Subject Member (if applicable) may be present to address the TERO Commission and bring forth their testimony and other evidence.~~

~~aaa) The TERO Office and the Human Resources Office shall present the collaborative investigation including evidence, interview notes, as well as all documented witness statements and applicable attempts to obtain an informal resolution to the TERO Commission.~~

~~bbb) The Commission may choose to take immediate action by a recommendation to~~

~~Tribal Council or take the matter under advisement for a maximum of ten (10) business days.~~

~~ccc) — The TERO Office shall notify the Complainant in writing of the final decision from the TERO Commission on the status of the complaint. A copy of the final decision letter will also be furnished to the Subject Member (if applicable), as well as the Human Resources Office. Upon delivery of the letter the Complaint will be deemed Closed.~~

~~ddd) Any further actions shall be filed in Kenaitze Tribal Court for an opinion of compliance with all applicable Kenaitze Tribal laws.~~

Section 13. Sovereign Immunity

Nothing in this Ordinance shall waive the sovereign immunity of the Tribe, Council Members, Commissioners, Tribal employees, or any other tribal agents responsible for the implementation and enforcement of this Ordinance. The Complaint provisions of this Ordinance shall not be construed as a waiver of sovereign immunity, or as authority for a claim for money damages, or specific performance against the Tribe. Nothing in this Ordinance shall be construed as creating a private right of action.

The Tribal Council in its sole discretion may amend or rescind this Ordinance in whole, or in part at any time without notice.

Section 14. Severability Clause

If any provision of this ordinance or the application thereof to any person, entity, or circumstance is held invalid, unlawful, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity or enforceability of the remaining provisions. The remaining provisions shall continue in full force and effect and to this end, the provisions of this ordinance are declared to be severable.

Section 15. ~~Enactment and Conditional Implementation~~

~~C. Except as provided in subsection (B), all provisions of the KENAITZE INDIAN TRIBE TRIBAL EMPLOYMENT RIGHTS ORDINANCE are hereby enacted and shall take immediate effect upon ratification, with the full force and effect of law.~~

~~D. Sections 10, 11, and 12 of this ordinance shall not take effect until the necessary infrastructure, policies, and procedures have been developed and implemented to support their enforcement and administration. These sections shall become effective only upon final approval by the Kenaitze Tribal Council through formal resolution.~~

~~E. The Kenaitze Tribal Council shall issue a resolution affirming the effective date of sections 10, 11, and 12 once it determines that:~~

~~0. All necessary administrative and enforcement mechanisms related to these sections are operational.~~

~~0. Adequate funding and personal resources are in place.~~

~~0. Designated authorities are prepared to enforce these sections.~~

~~0. Any required agreements, regulations, or intergovernmental arrangements have been adopted and executed.~~

~~J.A. _____ Until such time as the Kenaitze Tribal Council issues the resolution required under subsection (C), Sections 10, 11, and 12 shall have no legal force or effect. The remainder of this ordinance shall remain fully enforceable.~~

CERTIFICATION

Adopted **this 6th** day of May, 2025, by a vote ___ yeas and ___ nays
___ abstentions, and ___ absent.

**Bernadine Atchison, Tribal Council Chair
Kenaitze Indian Tribe**

**Ronette Stanton, Tribal Council Secretary
Kenaitze Indian Tribe**