

Lac Courte Oreilles Tribal Code of Law

Volume 2

Titles DMR through PHS

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Features

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Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to promote the traditional value that children are the most important asset of the Tribe, which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1 (q), (s), (t), and (u) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to: "establish a tribal court for the purpose of enforcing tribal ordinance..." Article V, § 1 (q); "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers" Article V, § 1 (s); "provide for the regulation of child custody and domestic relations matters by ordinances or resolution" Article V, § 1 (t); "provide for the appointment of guardians for minors, aged persons, and mental incompetents by ordinance or resolution" Article V, § 1 (u). It is the purpose of this ordinance to protect the health, safety, and welfare of all children within the jurisdiction of the Lac Courte Oreilles Tribe. In the children lie the Tribe's future, and in their retention of Ojibwe traditions and culture lies the preservation of the Tribe's past. It is the policy of the Tribe to strengthen family structures, to prevent family breakups, and to foster conditions favorable to the growth, spirit, culture, and individuality of each child. A child without knowledge of the past is directionless in the path forward; a child without a nurturing present is denied the strengths that lead to the future. It is the Tribe's policy to favor preventive action over belated reaction, meditation over

confrontation, counseling over lecturing, conciliation over punishment, - but in all decisions made under this ordinance the welfare of the child shall be the ultimate touchstone.

**Subchapter DMR.1.1
Introduction**



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DMR.1.1.010 Title

This ordinance shall be known as the Children's Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 15-87)

Prior Codifications

* §DMR.1.1.010 was formerly codified as VII LCOTCL §1.101

DMR.1.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1 (q), (s), (t), and (u) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to: "establish a tribal court for the purpose of enforcing tribal ordinance..." Article V, § 1 (q); "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers" Article V, § 1 (s); "provide for the regulation of child custody and domestic relations matters by ordinances or resolution" Article V, § 1 (t); "provide for the appointment of guardians for minors, aged persons, and mental incompetents by ordinance or resolution" Article V, § 1 (u).

(Res. No. 15-87)

Prior Codifications

* §DMR.1.1.020 was formerly codified as VII LCOTCL §1.102

DMR.1.1.030 Policy

It is the policy of the Tribe to strengthen family structures, to prevent family breakups, and to foster conditions favorable to the growth, spirit, culture, and individuality of each child. A child without knowledge of the past is directionless in the path forward; a child without a nurturing present is denied the strengths that lead to the future. It is the Tribe's policy to favor preventive action over belated reaction, meditation over confrontation, counseling over lecturing, conciliation over punishment, - but in all decisions made under this code the welfare of the child shall be the ultimate touchstone.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.1.030 was formerly codified as VII LCOTCL §1.103

DMR.1.1.040 Purpose

It is the purpose of this ordinance to protect the health, safety, and welfare of all children within the jurisdiction of the Lac Courte Oreilles Tribe. In the children lie the Tribe's future, and in their retention of Ojibwe traditions and culture lies the preservation of the Tribe's past. This ordinance establishes that:

(a) The young people of the Tribe are properly the concern and responsibility of the Tribe and their welfare is of paramount importance to the Tribe.

(b) It is important that the young people of the Tribe receive, preferably in their own homes, the care and guidance needed to prepare them to take their places as adult members of the Tribe.

(c) The Tribe needs a recognized Children's Court to insure that off-reservation Courts will be willing to return young people of the Tribe to the Reservation for care and guidance in accordance with the Indian Child Welfare Act, 25 U.S.C. § 1901, et. seq.

(d) The Children's Court shall protect the child's interest by choosing a course of action which least restricts the child's freedom and is consistent with the safety and interests of the Tribe and its children.

(e) It is the intent of the Tribe to provide its children with and assure the availability of preventive services, thorough and accountable case planning, recognition of special needs, and services designed to preserve and reunify families.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.1.040 was formerly codified as VII LCOTCL §1.104

DMR.1.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.1.050 was formerly codified as VII LCOTCL §1.105

DMR.1.1.060 Interpretation

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements to strengthen family structures, to prevent family breakups, and to foster conditions favorable to the growth, spirit, culture, and individuality of each child subject to this ordinance;

(b) Shall be liberally construed in favor of the Tribe;

(c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(d) Shall be interpreted to be in accordance with tribal customary law. Whenever there is uncertainty or a question as to the interpretation of certain provisions of this ordinance, tribal law and custom shall be controlling, and where appropriate, may be based on the written or oral testimony of a qualified tribal elder, tribal historian, or tribal representative. If the traditions and customs of the Tribe are inconclusive in any matter, the Children's Court may use tribal law, federal law or law of the State of Wisconsin for guidance;

(e) Along with the provisions of Title II of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law (LCOTCL) except when inconsistent with any provision of this ordinance, shall apply to any proceeding initiated hereunder;

(f) Does not waive the sovereign immunity of the Tribe in any respect.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.1.060 was formerly codified as VII LCOTCL §1.106

DMR.1.1.070 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies,

employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.1.070 was formerly codified as VII LCOTCL §1.107

DMR.1.1.080 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.1.080 was formerly codified as VII LCOTCL §1.108

**Subchapter DMR.1.2
Definitions**



DMR.1.2.010 General Definitions..... DMR.1.2-1

DMR.1.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"Affected Persons"** means the child who is the subject of a petition under this ordinance, the Tribe by the Child Welfare Director or the Assistant Child Welfare Director, and the child's parents, guardians, and custodians.

(b) **"Adoptee"** means the individual, child or adult who is adopted or is to be adopted.

(c) **"Adoptive Parent"** means the person establishing or seeking to establish a permanent parent-child relationship with a child who is not their biological child.

(d) **"Assistant Child Welfare Director"** means the Tribe's Assistant Director of Indian Child Welfare. When the Child Welfare Director and Assistant Child Welfare Director are unavailable, a designee shall be named in their absence and shall have all requisite authority of the Child Welfare Director and/or the Assistant Child Welfare Director.

(e) **"Best Interests of a Child"** means:

(1) The ability of the Tribe and reservation community to provide for the care of the Child;

(2) The wishes of the Tribe, parents, party or parties;

(3) The preference of the Child if the Child is of sufficient age to express a preference;

(4) The intimacy of the relationship between the parties and the Child; the Child's adjustment to the home, school and the Tribal community;

(5) The length of time the Child has lived in a stable, satisfactory environment and desirability of maintaining continuity;

(6) The permanence as a family unit, of the existing or proposed adoptive home;

(7) The mental and physical health of all individuals involved;

(8) The capacity and disposition of the parties to give the child love, affection, guidance and to continue educating the Child in the Child's tribal culture and heritage.

(f) "**Best Interests of the Tribe**" means a variety of factors including but not limited to the ability of the Tribe and its members to provide for the Child; the ability of the Tribe and its members to provide for the continuation of the Tribe's culture, language, history, religion, traditions, and values through its children if those children are taken away and not taught these things throughout their lives. The ability of the Tribe to continue as a viable cultural entity will be hindered by the loss of its children. Every child is a gift from the creator and is viewed by the Tribe as crucial to the future of the Tribe as a whole.

(g) "**Birth Parent**" means the biological parents listed on the child's birth certificate,, enrollment application or acknowledged as the birth parent by law.

(h) "**Child**" or "**Minor**" means a person who is a member of the Tribe, or is eligible for membership in the Tribe, whether or not resident or domiciled on the Reservation and whether or not the subject of a child welfare proceeding in any Court; or who is the child of a member of the Tribe; or who is an Indian child and resides within the boundaries of the Reservation; and who is

(1) Under eighteen (18) years of age, or

(2) Eighteen (18) years of age or older and concerning whom proceedings were commenced in the Children's Court, or in another Court from which such proceedings are transferred to the Children's Court, prior to his or her 18th birthday.

(3) "**Code**" or "**Ordinance**" means this Children's Code.

(i) "**Customary Adoption**" means a traditional tribal practice recognized by the community and Tribe which gives a child a permanent parent-child relationship with someone other than the child's birth parent(s).

(j) "**Child Welfare Director**" means the Tribe's Director of Indian Child Welfare. When the Child Welfare Director is unavailable, the Assistant Child Welfare Director shall have all requisite authority of the Child Welfare Director in his or her absence.

(k) "**Child Welfare Proceeding**" has the meaning given to "child custody proceeding" in 25 U.S.C. § 1903 (1), and in addition, shall mean any child protective proceeding regarding any child under twelve (12) years of age who commits an act which, but for the child's age, would be considered a criminal or delinquent act.

(l) "**Children's Court**" means the Children's Court Division of the Lac Courte Oreilles Tribal Court exercising jurisdiction pursuant to this ordinance.

(m) "**Custodian**" means a person having care and custody of a child under any arrangement with the child's parent or guardian or pursuant to order of the Children's Court.

(n) "**Days**" means business days and excludes all observed holidays including tribal holidays.

(o) "**Extended Family**" means all persons who are a child's relative pursuant to tribal customary law including but not limited to indaanikobijigan (blood lines such as brother, sister, grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, first or second cousin, niece, nephew), wiidigendinaaniwan (marriage ties such as stepparent, stepbrother, stepsister, brother-in-law, sister-in-law), niyawenh'enh (namesake), nindoodem (clan member), and bami'aagan (customary adoption relative).

(p) "**Final Decree of Customary Adoption**" means a final order of the Children's Court which established the permanent legal relationship between the child and the adoptive parent(s) and establishes any contact which may be allowed with the biological parent.

(q) "**Final Order Suspending Parental Rights**" means a final order of the Children's Court which suspends the rights of a biological parent to provide for the care, custody and control of their child. A Final Order Suspending Parental Rights may establish the parameters of contact between the birth parent and the child if that contact is in the child's best interest.

(r) "**Guardian**" means a person appointed by any Court to be guardian of a child's person.

(s) "**Guardian Ad Litem**" means a person appointed by the Children's Court to appear in child welfare proceedings on behalf of a child.

(t) "**Law Enforcement Officer**" means any tribal, federal, state or county social worker or peace officer of any jurisdiction within the boundaries of the United States and Canada.

(u) "**Person with an Interest in a Child**" means the child if fourteen (14) years of age or over, the child's parents, guardian, custodian, a member of the child's Extended Family, a law enforcement or conservation officer when jurisdiction under Section DMR.1.5.010(h) of this ordinance is alleged, the Child Welfare Director, and the Assistant Child Welfare Director.

(v) "**Prenatal Exposed Newborn**" means a child who has been exposed to addictive illicit drugs or prescription drugs or alcohol while in the womb and exhibits symptoms consistent with Neonatal Abstinence Syndrome after birth, or the child or the mother tests positive for

addictive illicit drugs or addictive prescription drugs during the pregnancy or shortly after the child's birth. Addictive illicit and prescription drugs include, but are not limited to the following: amphetamine, including methamphetamine, barbiturates, benzodiazepines, cocaine, and its metabolites, marijuana, opiates, narcotics and opioids, such as fentanyl, oxymorphone, codeine, dihydrocodeine, ethylmorphine, hydromorphone, hydrocodone, morphine, methadone, and buprenorphine. The definition of "Prenatal Exposed Newborn" does not include children whose sole exposure to addictive prescription substances comes through medication provided to the mother during labor and childbirth.

(w) "**Reservation**" means those lands located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(x) "**Secure Custody**" means a locked facility approved by the Child Welfare Director or Assistant Child Welfare Director for the secure, temporary holding of children in custody.

(y) "**Substantial Parental Relationship**" means the acceptance and exercise of significant responsibilities for the daily supervision, education, protection, and care of a child, as evidenced by factors including but not limited to whether the parent has ever expressed concern for or interest in the support, care, or well-being of the child or custodial parent, and whether the parent has neglected or refused to provide support.

(z) "**Suspension of Parental Rights**" means the suspension of the rights, powers, privileges, immunities, duties, and obligations existing between parent and child, as agreed by the biological parent; however tribal membership, rights, privileges, entitlements, or obligations shall not be affected by such suspension for the child(ren).

(aa) "**Tribe**" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.2.010 was formerly codified as VII LCOTCL §1.201

**Subchapter DMR.1.3
Children's Court**



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DMR.1.3.010 Children's Court Division

There is hereby established a Children's Court Division of the Lac Courte Oreilles Tribal Court exercising jurisdiction pursuant to this ordinance as follows:

(a) The chief judge and any associate judges of the Lac Courte Oreilles Tribal Court shall serve as judges of the Children's Court. Any magistrate of the Tribal Court shall serve as magistrate of the Children's Court with such powers as are provided in Chapter TCT.2 and in this ordinance.

(b) All child welfare proceedings of the Children's Court shall be designated as "In the interest of . . . , a minor."

(c) All petitions under this ordinance shall be filed with the Children's Court. Petitions shall include the child's name, date of birth, parents' names, parents' last known addresses, and names and addresses of all other affected persons, if known.

(d) In the event that a child welfare proceeding is transferred to the Children's Court from any other Court, the Children's Court shall require conformity with the substantive and procedural law of the Tribe, and shall permit amendment of pleadings and other actions necessary to effect jurisdiction over the child and for conformity with this ordinance.

(e) All hearings in the Children's Court shall be without a jury and all hearings shall be closed to the public. All proceedings shall be recorded electronically or verbatim by a licensed court reporter. The Children's Court Division may conduct hearings by telephone and may allow any party or witness to appear by telephone under such procedures as will best protect the rights of all parties.

(f) The Children's Court may receive hearsay evidence when the declarant is a child, provided that the evidence bears sufficient indication of reliability.

(g) Except as provided in Section DMR.1.5.060(g) of this ordinance, all records of the Children's Court shall be confidential and only affected persons shall have access.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.010 was formerly codified as VII LCOTCL §1.301

DMR.1.3.020 Full Faith and Credit

(a) The Children's Court, Child Welfare Director, Assistant Child Welfare Director and other officials of the tribal government shall grant the public acts, records and judicial proceedings of other entities, applicable to child welfare proceedings, full faith and credit to the same extent such entities give full faith and credit to the public acts, records and judicial proceedings of the Tribe.

(b) Without limitation to Section DMR.1.3.020(a) above, the Children's Court may, upon petition, accept a case originally brought in another Court. Cases not accepted by the Children's Court within sixty (60) days of the entry of the order transferring the case shall be deemed a declination of the case. The Children's Court may, on its own motion or the motion of any party, decline or waive jurisdiction over a child at any time

(c) Upon entry of the order transferring the case, dispositional orders in effect when the case was transferred to the Children's Court shall have the same effect as if they had been issued by the Children's Court, regardless of whether the Children's Court would otherwise have had the power to make the order. Regardless of the law of other jurisdictions, the Children's Court may modify, extend, suspend or terminate any order issued in a transferred judicial proceeding pursuant to the provisions of this Code.

(d) Nothing herein shall be construed to limit the exclusive jurisdiction of the Tribe to make determinations of its own membership, and to make, through its duly designated procedures, all findings of fact necessary to such determinations.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.020 was formerly codified as VII LCOTCL §1.302

DMR.1.3.030 Jurisdiction over Parents and Their Children in Need of Care

(a) The Children's Court shall have jurisdiction over a minor upon a petition filed by the Child Welfare Director or Assistant Child Welfare Director alleging that the minor is a minor in need of care because of the existence of any of the conditions enumerated in Section DMR.1.4.010 and Section DMR.1.5.010 of this ordinance.

(b) The Children's Court shall have jurisdiction over the parents of any minor over whom the Children's Court has acquired jurisdiction under Section DMR.1.3.030(a), above.

(c) When the Children's Court exercises jurisdiction over any child who is not a member of the Tribe but who may be a member of another tribe, the Court shall verify that notice was given to such other tribe, and an opportunity to participate as a witness, to intervene as a party, or to file a motion seeking transfer of proceedings to the other tribe's Court shall be permitted. If a Child's Tribe objects to the jurisdiction of the Children's Court prior to the entry of a final judgment in the case, the Court shall waive jurisdiction over the ineligible child, except as provided in Section DMR.1.3.140 of this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.030 was formerly codified as VII LCOTCL §1.303

DMR.1.3.040 Additional Jurisdiction

In addition to jurisdiction granted by other sections of this ordinance, the Children's Court shall have jurisdiction to:

(a) Order a law enforcement officer, the Child Welfare Director, or the Assistant Child Welfare Director to take a child into custody pursuant to Section DMR.1.1.040 of this ordinance and conduct other emergency custody proceedings as provided for in Subchapter DMR.1.4 of this ordinance.

(b) Terminate the parental rights of a parent of a child pursuant to Subchapter DMR.1.6 of this ordinance.

(c) Appoint a guardian for a child pursuant to child pursuant to Subchapter DMR.1.7 of this ordinance.

(d) Enter an order of adoption resetting the parental relations of a child pursuant to Subchapter DMR.1.8 of this ordinance.

(e) Suspend the parental rights of a parent pursuant to Subchapter DMR.1.6 of this ordinance.

(f) Enter an order of Customary Adoption resetting the parental relations of a child pursuant to Subchapter DMR.1.8 of this ordinance.

(g) Conduct any other proceeding not contrary to express tribal law necessary to exercise delegated and inherent authority held by the Tribe to protect a Child.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.3.040 was formerly codified as VII LCOTCL §1.304

DMR.1.3.050 Jurisdiction over Contributing Adults

In addition to jurisdiction granted by other sections of this ordinance, the Children's Court shall have jurisdiction over persons eighteen (18) years or older alleged to have contributed to, encouraged, or tended to cause, by act or omission, a condition of a child as described in Section DMR.1.5.010 of this ordinance as follows:

(a) The Children's Court may make orders with respect to any person eighteen (18) years or older who has contributed to, encouraged, or tended to cause, by any act or omission, a child to be a child in need of care, whether or not the child is actually adjudicated a child in need of care, if the natural and probable consequences of the act or failure to act would be to cause the child to be a child in need of care.

(b) No order with respect to any person eighteen (18) years or older may be entered until the person is given an opportunity to be heard upon the allegations against him or her. Such person shall be served no less than ten (10) days prior to a hearing under this subsection with written notice of the time, place, and purpose of the hearing. Any such person who fails to comply with any order issued by the Children's Court under this subsection may be proceeded against for contempt of court.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.3.050 was formerly codified as VII LCOTCL §1.305

DMR.1.3.060 Continuing Jurisdiction

The Children's Court shall have continuing jurisdiction, subject to Section DMR.1.4.040 and Section DMR.1.5.060(h) of this ordinance, over a child who is determined to be subject to this ordinance and shall have the power to modify, extend, or dismiss previous orders, expunge the child's records, or consider petitions based on new evidence concerning the child.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.3.060 was formerly codified as VII LCOTCL §1.306

DMR.1.3.070 Precedence over Family Court Orders

Whenever an order rendered under this ordinance conflicts with a custody, physical placement, or other family Court order rendered by any Court, the order under this ordinance shall take precedence. Nothing in this ordinance shall be construed to limit the power of the Tribal Court to have jurisdiction over a child under other sections of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law or other law.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.070 was formerly codified as VII LCOTCL §1.307

DMR.1.3.080 Parties

(a) In the absence of a specific provision in this ordinance or a court order to the contrary, all Affected Persons, as defined in Section DMR.1.2.010(a) of this ordinance, shall be parties to a Children's Court proceeding held in the interest of a child. Out-of-home placements will receive notices of all proceedings, but their appearances are not required. After termination of parental rights, no parent whose rights have been terminated shall be entitled to notice of any further proceedings regarding the child, except as the Children's Court may deem appropriate.

(b) The Children's Court may, in any proceeding under this ordinance, appoint a guardian ad litem to represent the interests of the child for purposes of the proceeding. Appointment may be made upon request of any party or upon the Children's Court own motion. The Children's Court may appoint only an attorney, lay advocate, or other adult whom the Children's Court is satisfied is familiar with this ordinance and with the procedures of the Children's Court and will sincerely and competently represent the child's best interests. The fees and costs of the guardian ad litem shall be subject to the approval of the Children's Court. The guardian ad litem, if an attorney, shall be compensated at the Wisconsin Judicare attorney compensation rate, and if anyone other than an attorney, at the Wisconsin Judicare lay advocate rate. The Children's Court may order an appropriate party to pay the guardian ad litem fees and costs, or to reimburse the Tribe for such fees and costs.

(c) In all proceedings before the Children's Court, the Child Welfare Director or Assistant Child Welfare Director shall represent the interests of the Tribe, which may be through a designated child welfare worker of the Tribe's Indian Child Welfare Department. The Child Welfare Director, Assistant Child Welfare Director, or their designated child welfare worker may be represented by the Tribal Prosecutor or other Tribal Attorney appointed by the Tribe to represent its interests before the Children's Court.

(d) Any party to a proceeding under this ordinance may be represented by an attorney or lay advocate at the party's expense, provided the attorney or lay advocate is admitted to practice before the Tribal Court.

(e) Upon a showing of good cause, and if the best interests of the child so indicate, the Children's Court may order, allow, or invite persons other than affected persons to intervene and participate in any or all phases of the proceeding.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.080 was formerly codified as VII LCOTCL §1.308

DMR.1.3.090 Discovery

(a) Copies of all law enforcement reports, relevant to the proceeding under this ordinance, including all officers' memoranda and witness statements, shall be made available by the Tribal Prosecutor, the Child Welfare Director, or the Assistant Child Welfare Director upon request of a party, counsel or the child's guardian ad litem prior to the initial hearing in any matter.

(b) All records relating to a child which are relevant to a proceeding under this ordinance, and which are in the possession of Indian Child Welfare Department, shall be open to inspection by a guardian ad litem or counsel upon demand without release, unless privileged, unless release is required by tribal or federal law, or unless the records contain statements given under a promise of confidentiality or contain material the non-disclosure of which is necessary to protect the interests of the child. If any records are not released to a requesting party, the reason shall be given to the party, who may ask the Children's Court to review the denial of the request, in which case the Children's Court may, in its discretion, view the records in camera in order to decide whether to order the records released. Any party not represented by counsel may have access to records upon order of the Children's Court, which may be entered ex parte. Persons entitled to inspect records may obtain copies of them at their expense upon permission of the custodian of the records or the Children's Court. The Children's Court may require counsel or parties not to disclose material contained in the records to any other person if the Children's Court reasonably believes such disclosure would be harmful to the child.

(c) Counsel and guardian ad litem shall have the right to view any videotaped oral statement of the child upon reasonable notice without release, unless privileged, unless release is required by tribal or federal law, or unless the records contain statements given under a promise of confidentiality or contain material the non-disclosure of which is necessary to protect the interests of the child. If any videotaped oral statement of the child are not released to a requesting party, the reason shall be given to the party, who may ask the Children's Court to review the denial of the request, in which case the Children's Court

may, in its discretion, view the videotaped oral statement of the child in camera in order to decide whether to order the videotaped oral statement of the child released. Any party not represented by counsel may have access to videotaped oral statement of the child upon order of the Children's Court, which may be entered ex parte. Persons entitled to inspect videotaped oral statement of the child may obtain copies of them at their expense upon permission of the custodian of the videotaped oral statement or the Children's Court. The Children's Court may require counsel or parties not to disclose material contained in the videotaped oral statement to any other person if the Children's Court reasonably believes such disclosure would be harmful to the child.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.090 was formerly codified as VII LCOTCL §1.309

DMR.1.3.100 Psychological and Other Examinations

The Children's Court may in any proceeding under this ordinance, order any child and the child's parents, guardians, or custodians, to submit to a psychological, mental, or developmental examination, or to a drug and alcohol abuse evaluation, if the Court reasonably believes that any condition that may be illuminated by such an examination would assist in the adjudication or disposition of the case. The costs to any affected person of any such exam, if approved by the Children's Court, shall be paid by the Tribe, if the costs are not covered by a third-party payer.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.100 was formerly codified as VII LCOTCL §1.310

DMR.1.3.110 Parental Contributions

(a) Whenever the Children's Court orders an out-of-home placement it shall make a determination, or refer to an appropriate tribal or state agency for a determination, of any parent's or guardian's ability to contribute to the support of the child while in such placement, and shall order an appropriate reimbursement by the parent or guardian to the agency financially supporting the out-of-home placement.

(b) Upon motion of the Child Welfare Director or Assistant Child Welfare Director, any parent or guardian may be ordered to contribute to the costs of services rendered to any child or any child's parent under authority of this ordinance or any Court order entered under this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.110 was formerly codified as VII LCOTCL §1.311

DMR.1.3.120 Informal Disposition

(a) Upon referral of any child who is or may be a child in need of care under Section DMR.1.5.010 of this ordinance, the Child Welfare Director or Assistant Child Welfare Director may investigate the circumstances, counsel the child, discuss the situation with the parents or guardians, arrange for services to be voluntarily accepted by the child or parents, or institute any other informal, voluntary arrangements designed to further the best interest of the child. At any time that the Child Welfare Director or Assistant Child Welfare Director deems it appropriate, proceedings may be instituted under any other subchapter of this ordinance.

(b) The Child Welfare Director or Assistant Child Welfare Director and affected parties, including the child if twelve (12) years of age or older, may upon mutual consent petition the Children's Court to institute peacemaking proceedings in any case where a child could be subject to a petition under any other subchapter of this ordinance. Peacemaking shall occur pursuant to the direction of the Children's Court under rules and procedures established, formally or informally, by the peacemaker or peacemakers appointed by the Tribal Court, provided that at any time that the Child Welfare Director or Assistant Child Welfare Director deems it appropriate, proceedings may be instituted under any other subchapter of this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.120 was formerly codified as VII LCOTCL §1.312

DMR.1.3.130 Accelerated Proceedings

Notwithstanding any other provision of this ordinance, the Children's Court may, upon proper notice or waiver of notice, accelerate and combine any of the hearings provided for in pursuant to Subchapter DMR.1.4 [Emergency Custody Proceedings] or Subchapter DMR.1.5 [Minor in Need of Care Proceedings] of this ordinance. The Children's Court may require the accelerated preparation of any court reports required by either subchapter or may waive the reports, except that any report required as a prerequisite to an out-of-home placement may not be waived.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.3.130 was formerly codified as VII LCOTCL §1.313

DMR.1.3.140 Ineligible Children

(a) Any child that does not fall within the definition of a "Child" pursuant to Section DMR.1.2.010(h) of this ordinance, or whose tribe has objected to jurisdiction of the Children's Court prior to the entry of a final judgment in the case under Section

DMR.1.3.030 of this ordinance, shall be subject to this ordinance only if the child is present on the Reservation and only for the following purposes:

- (1) Taking into custody for the purpose of protecting the ineligible child from imminent physical or emotional harm;
- (2) Making emergency placement necessary to protect the child;
- (3) Referral or placement to an appropriate tribal, state, or other child welfare agency.

(b) A report of the conditions requiring action under Section DMR.1.3.140(a) above, shall be filed immediately with the Sawyer County Department of Social Services.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.3.140 was formerly codified as VII LCOTCL §1.314

DMR.1.3.150 Right of Access to Records

Any party deemed appropriate by the Children's Court, and the child who has reached the age of eighteen (18) years and has been the subject of the termination of parental rights proceeding, the separation of parental rights proceedings, adoption proceeding or a customary adoption proceeding, has the right, to review all of the Court's files on these matters subject to the redaction of names or the rights of confidentially as required by Tribal or federal law.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.3.150 was formerly codified as VII LCOTCL §1.315

**Subchapter DMR.1.4
Emergency Custody Proceeding**



DMR.1.4.010 Taking a Child into Emergency Custody..... DMR.1.4-1
 DMR.1.4.020 Release from Emergency Custody..... DMR.1.4-4
 DMR.1.4.030 Holding a Child in Emergency Custody DMR.1.4-4
 DMR.1.4.040 Hearings for Child in Emergency Custody..... DMR.1.4-5
 DMR.1.4.050 Prenatal Exposure..... DMR.1.4-6

DMR.1.4.010 Taking a Child into Emergency Custody

(a) Any law enforcement officer, the Child Welfare Director, Assistant Child Welfare Director, or a designated child welfare worker may take a child into emergency custody without a Children's Court order, under circumstances in which the officer, Director, or Assistant Director reasonably believes:

- (1) Failure to remove the Child may result in a substantial risk of death, serious injury, or serious emotional harm;
- (2) The child, or another child living or staying in the same household, is the victim of or in immediate danger of physical, sexual, or emotional harm by other than accidental means.
- (3) The child, or another child living or staying in the same household, is deprived of necessary custodial, medical, or other care for reasons other than poverty.
- (4) The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from these surroundings is necessary.
- (5) The child will cause injury or harm to self or another, or to the property of another, or will be or has been subject to injury or harm by another, or another child living or staying in the same household will be or has been subject to injury or harm by another.
- (6) The child is without a parent or guardian.
- (7) The child is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized, or institutionalized.
- (8) The child has been abandoned by identified or unidentified parents, without provision for necessary custodial, medical, and other care.

(9) The child's parent, guardian, or custodian, is unavailable, unwilling, or unable to provide necessary supervision or care such that the child's safety or well-being, or the safety or well-being of another child living or staying in the same household is at imminent risk.

(10) The parent, guardian, or custodian is absent and it appears from the circumstances, that the Child is unable to provide for his/her own basic necessities of life, and no satisfactory arrangements have been made by the parent, guardian, or custodian to provide for such necessities and no alternative arrangements, except removal are available to protect the Child.

(11) The child's parent, court-appointed guardian, or custodian signs a statement alleging that he or she is unable to provide necessary custodial care or make appropriate provision for the child's special custodial, medical or other specified needs after consultation with the Child Welfare Director or the Assistant Child Welfare Director.

(12) The child has habitually run away from his or her parents, guardians, or custodians.

(13) The child is habitually truant from home.

(14) The child will run away or be taken away so as to be unavailable for further Children's Court proceedings.

(15) The child is under twelve (12) years of age and has violated tribal, state, or federal law.

(16) The child has engaged in conduct prohibited to minors, or which would be criminal if done by an adult, and whose parent or guardian fails, or has failed, or is unable to correct or regulate such conduct.

(17) The child is suffering from alcohol or other drug abuse, for which the parent is unwilling or unable to provide appropriate treatment.

(18) The child is sixty (60) days old or younger and has been treated for, or diagnosed with, Neonatal Abstinence Syndrome by a doctor who is competent to treat or diagnose that condition, or samples of blood, urine or meconium of the child or the mother obtained during pregnancy or shortly after birth indicate the presence of addictive illicit drugs or non-prescribed addictive prescription drugs after analysis using current standards for drug screens.

(19) Emergency custody of the child would be permitted under the law of the state where the child is physically found at the time of the institution of emergency custody procedures.

(b) A person who takes a child into emergency custody without a Children's Court order, under the circumstances described in Section DMR.1.4.010(a) of this ordinance, shall make reasonable efforts to provide immediate notice to the Children's Court which may be accomplished through submission of an emergency custody form, and/or provide immediate notice to the Child's Tribe if different from the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. Upon notification, the Children's Court shall schedule a hearing pursuant to Section DMR.1.4.040 of this ordinance, and the Child Welfare Director or Assistant Child Welfare Director shall file a petition with the Children's Court pursuant to Subchapter 1.5 of this ordinance before or at the hearing scheduled pursuant to Section DMR.1.4.040 of this ordinance.

(c) Any person taking a child into emergency custody under this section shall immediately attempt to notify the parent, guardian or custodian by the most practical means which may be accomplished through delivery of an emergency custody form, and shall continue to reasonably make such attempts until notification is made. Any law enforcement officer acting under this section shall also immediately attempt to notify the Child Welfare Director or Assistant Child Welfare Director. If the child is physically transferred to the Child Welfare Director or Assistant Child Welfare Director, the Director or the Assistant Director shall thereafter continue notification attempts until notification is made. The person notifying the parent, guardian, or custodian, need not inform such person of the location of the child if the notifying person reasonably believes that providing such information will imminently endanger the child.

(d) If the person taking a child into emergency custody, or the Child Welfare Director or Assistant Child Welfare Director, believes the child to be in need of prompt medical diagnosis or treatment that person or a designee shall deliver the child to a hospital or physician, for that purpose, and may consent to the medical care of the child.

(e) The agency taking a child into emergency custody shall thereafter have the authority to make all decisions regarding the care and well-being of the child until the child is released from custody under Section DMR.1.4.020 of this ordinance, or by order of the court, unless custody is transferred to the Child Welfare Director or Assistant Child Welfare Director, in which case such authority shall transfer therewith. The agency taking a child into custody or the Child Welfare Director or Assistant Child Welfare Director retains custody during any

placement made under Section DMR.1.4.030 Section DMR.1.4.030(b) or Section DMR.1.4.030(c) of this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.4.010 was formerly codified as VII LCOTCL §1.401

DMR.1.4.020 Release from Emergency Custody

(a) Any child taken into emergency custody shall be released as soon as it is possible to do so, while protecting the child from the conditions causing the taking into emergency custody. If the grounds for emergency custody are corrected, the child may be returned to the parent, guardian, or custodian by the person originally authorizing removal or by the Child Welfare Director or Assistant Child Welfare Director.

(b) The person taking a child into custody, or the Child Welfare Director or Assistant Child Welfare Director, shall attempt to immediately release the child to his or her parent, guardian, or custodian, unless such release is inconsistent with the child's best interests, or, if the parent, guardian, or custodian is unwilling or unable to receive such child, to a responsible adult, with suitable counsel, advice, or warning, in which case the name and address of the person to whom the child has been released shall be immediately given to the parent, guardian, or custodian, unless there is reason to believe the release of such information will imminently endanger the child or the person to whom the child has been released. If the procedure given in Section DMR.1.4.030, Section DMR.1.4.040 and Section DMR.1.5.030(a) of this ordinance are not followed, the child's parent, guardian or custodian shall have a right upon court order to exercise custody and supervision over the child.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.4.020 was formerly codified as VII LCOTCL §1.402

DMR.1.4.030 Holding a Child in Emergency Custody

(a) A child may be held in emergency custody if the Child Welfare Director or Assistant Child Welfare Director has probable cause to believe that any of the conditions enumerated in Section DMR.1.4.010(a) of this ordinance exists.

(b) No child shall be held in secure custody, as defined in Section DMR.1.2.010(x) of this ordinance, unless the child consents to secure custody in order to protect him or her from an imminent physical threat from another, or such secure custody is ordered by the Children's Court.

(c) A child may be held in emergency custody in any of the following places:

(1) The home of a parent or guardian.

(2) The home of a relative.

(3) The home of a custodian.

(4) The home of another responsible adult.

(5) A licensed foster home provided the placement does not violate the terms of the license.

(6) A licensed group home provided the placement does not violate the terms of the license.

(7) A nonsecure facility operated by a child welfare agency.

(8) A hospital or physician's office.

(9) A drug or alcohol treatment facility.

(d) The Child Welfare Director or Assistant Child Welfare Director shall immediately notify the child's parent, guardian, or custodian that the child is in custody, the reasons for the custody, and the location of the child unless there is reason to believe that such information will present imminent danger to the child.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.4.030 was formerly codified as VII LCOTCL §1.403

DMR.1.4.040 Hearings for Child in Emergency Custody

(a) For any child who has been taken into custody and not released under Section DMR.1.4.020 of this ordinance, a hearing shall be held to determine whether the criteria exist under Section DMR.1.4.010 and Section DMR.1.4.030 of this ordinance to continue holding the child in custody. The hearing shall be held as soon as practicable but no more than ten (10) days after the child is taken into custody. A petition under Subchapter DMR.1.5 of this ordinance shall be filed before or at the hearing. All reasonable steps shall be taken to notify the child's parents, guardian, and custodian of the hearing. If the parent, guardian, or custodian does not receive actual notice, he or she may later request a rehearing by right if the child is still under the Court's jurisdiction or the issue is not otherwise moot.

(b) If, within the time provided by Section DMR.1.4.040(a) above, no hearing is held, or no petition is filed, the child shall be released from emergency custody, unless the Court or magistrate finds either ex parte or at a post-deadline hearing that probable cause exists to believe that the child is in imminent danger to self or another, or that the child's parent, guardian, or custodian is unwilling or unable to provide adequate supervision and care, in

which case one 48 hour extension may be granted during which time the child shall remain in emergency custody pending the filing of a petition. Ex parte findings of probable cause and findings of probable cause by a magistrate shall be reconsidered, and an opportunity to present oral and written evidence and argument shall be provided, by right, if any affected person requests reconsideration or hearing. Hearings under this subsection may be conducted by telephone.

(c) The hearing required under this section need not be held if the child's parents, guardians, or legal custodians and, if the child is over twelve (12), all agree that the child may remain in custody.

(d) A copy of the petition under this section and Subchapter DMR.1.5 of this ordinance shall be given to the child's parent, guardian, or legal custodian, and to the child if twelve (12) or older, as soon as practicable, and in no case later than the commencement of the hearing.

(e) At the commencement of the hearing, the Children's Court shall advise the child, and the parents, guardians, or custodians, of the allegations made, the possible consequences of the hearing, the right to counsel at a party's own expense, the right to confront and cross-examine witnesses, and the right to present witnesses.

(f) If the Children's Court finds that one or more of the conditions enumerated in Section DMR.1.4.010(a) of this ordinance exists, it may continue custody in any of the placements enumerated in Section DMR.1.4.030(c) of this ordinance. The Children's Court may also impose reasonable restrictions on the child's travel, association with other persons, or places of abode, and may assign the child to the supervision of the Indian Child Welfare Department. Reasonable restrictions may be placed upon the conduct of the parents, guardians, custodians, or other responsible adults as necessary to secure the safety and well-being of the child. Any order entered under this section shall be reduced to writing within ten (10) days thereof.

(g) Any order under this section shall be subject to rehearing for good cause.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.4.040 was formerly codified as VII LCOTCL §1.404

DMR.1.4.050 Prenatal Exposure

There shall be a presumption that a child is in need of care if the child is diagnosed with Neonatal Abstinence Syndrome by a doctor who is competent to make that diagnose, or samples of blood, urine or meconium of the child or the mother obtained during pregnancy, or shortly after birth, indicate the presence of addictive illicit drugs or non-prescribed addictive prescription drugs after analysis using current standards for drug screens. That

presumption can be overcome, by clear and convincing evidence, showing that the birth mother made the following efforts to prevent harm to her unborn child during the pregnancy:

(a) Only using addictive prescription medication as prescribed by a physician and lowering doses of addictive medication during the pregnancy, as recommended by the prescribing physician.

(b) Avoiding all illegal illicit drugs, and addictive prescription drugs without a prescription, as shown through drug screens testing the mother's blood or urine throughout the pregnancy.

(c) Actively participating in AODA services; and

(d) Obtaining all necessary and recommended prenatal care, including mental health services if recommended by her health care provider(s).

(Res. No. 15-87)

Prior Codifications

* §DMR.1.4.050 was formerly codified as VII LCOTCL §1.405

Subchapter DMR.1.5
Minor in Need of Care Proceedings



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DMR.1.5.020 Petition and Notice of Hearing	DMR.1.5-3
DMR.1.5.030 Initial Hearing	DMR.1.5-4
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DMR.1.5.060 Dispositional Hearing	DMR.1.5-6
DMR.1.5.070 Reviews, Extensions, and Modifications	DMR.1.5-9
DMR.1.5.080 Permanency Planning	DMR.1.5-10

DMR.1.5.010 Jurisdiction

The Children's Court shall have jurisdiction over a child upon a petition filed by the Child Welfare Director or Assistant Child Welfare Director alleging that the child is a child in need of care because of the existence of any of the following conditions:

- (a) The child, or another child living or staying in the same household, is the victim of or in danger of physical, sexual, or emotional harm by other than accidental means.
- (b) The child, or another child living or staying in the same household, is or may be deprived of necessary custodial, medical, or other care for reasons other than poverty.
- (c) The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from these surroundings is necessary.
- (d) The child will cause injury or harm to self or another, or to the property of another, or will be or has been subject to injury or harm by another, or another child living or staying in the same household will be or has been subject to injury or harm by another.
- (e) The child is without a parent or guardian.
- (f) The child is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized, or institutionalized.
- (g) The child has been abandoned by identified or unidentified parents, unless provision for necessary custodial, medical, and other care has been satisfactorily arranged and maintained.

(h) The child's parent, guardian, or custodian, is unavailable, unwilling, or unable to provide necessary supervision or care such that the child's safety or well-being, or the safety or well-being of another child living or staying in the same household is at imminent risk.

(i) The parent, guardian, or custodian is absent and it appears from the circumstances, that the Child is unable to provide for his/her own basic necessities of life, and no satisfactory arrangements have been made by the parent, guardian, or custodian to provide for such necessities and no alternative arrangements, except removal are available to protect the Child.

(j) The child's parent, court-appointed guardian, or custodian signs a statement alleging that he or she is unable to provide necessary custodial care or make appropriate provision for the child's special custodial, medical or other specified needs after consultation with the Child Welfare Director or the Assistant Child Welfare Director.

(k) The child's parent has failed to maintain an appropriate parental role or has failed to maintain significant contact with the child for a period of one year.

(l) The child has habitually run away from his or her parents, guardians, or custodians.

(m) The child is habitually truant from home.

(n) The child is habitually truant from school, and the school attendance officer attests that the activities required under Chapter GNC.5 have been completed.

(o) The child will run away or be taken away so as to be unavailable for further Children's Court proceedings.

(p) The child is under twelve (12) years of age and has violated tribal, state, or federal law.

(q) The child has engaged in conduct prohibited to minors, or which would be criminal if done by an adult, and whose parent or guardian fails, or has failed, or is unable to correct or regulate such conduct.

(r) The child is suffering from alcohol or other drug abuse, for which the parent is unwilling or unable to provide appropriate treatment.

(s) The child has not received immunizations as required by law.

(t) The child is a Prenatal Exposed Newborn, but only if the Child Welfare Director or the Assistant Child Welfare Director files a petition alleging that the child is in need of care within sixty (60) days of the child's birth.

(u) The child has been placed for care or adoption in violation of law.

(v) The child would be a child in need of care, protection, or services under the law of the state where the child is physically found.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.5.010 was formerly codified as VII LCOTCL §1.501

DMR.1.5.020 Petition and Notice of Hearing

(a) Any petition under this ordinance shall be filed with the Children's Court, shall be made under oath, and shall include the following information if known: child's name, date of birth, parents' names, child's parents' last known addresses, and the names and addresses of all other affected persons. Any petition filed under this ordinance shall be signed under oath by the Child Welfare Director or the Assistant Child Welfare Director.

(b) Any petition filed under this ordinance shall cite the specific subsection of Section DMR.1.5.010 of this ordinance upon which the petitioner alleges jurisdiction, and shall allege the specific facts upon which the petitioner asserts jurisdiction exists. No petition shall be sufficient if it merely reiterates the language of the subsection invoked.

(c) Upon filing of a petition, the clerk of court shall prepare a notice which shall include notice of the time, date, and place of the initial hearing, and shall instruct any affected person that his or her rights and responsibilities may be affected by the Children's Court in the course of the proceedings. Notice shall be served on all affected persons not later than twenty-four (24) hours in advance of the hearing. Upon request of the petitioner or order of a judge or magistrate, the clerk shall prepare a summons directing any parent with legal custody of a child to appear in Court and to produce the subject minor in Court.

(d) No petition filed by the Child Welfare Director or the Assistant Child Welfare Director shall be deemed insufficient on account of hearsay, provided that there is a sufficient indication in the petition of the declarant's reliability.

(e) Each petition shall be filed with the clerk of court, with copies served, together with the notice prepared by the clerk of court on all affected persons. The clerk of court serves the parties on behalf of the petitioner.

(f) Petitions shall be served personally or by first class mail. In the case of a non-marital child, the petition shall be served on any man whose paternity has been adjudicated, or who has filed a declaration of paternal interest, or who is alleged in any paternity action to be the father, except if the child was conceived as a result of sexual assault. In the event an affected person who was not personally served does not appear at the initial hearing the Children's Court may order a continuance and may order the person served personally or by

certified mail, return receipt requested. The Children's Court may proceed in the absence of an affected person if it appears that actual service cannot practicably be made. If an individual claiming paternity appears, the Children's Court may make an interim disposition pending a paternity determination based upon reasonable evidence where there are no competing interests or may make any other orders fashioned to serve the best interest of the child.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.5.020 was formerly codified as VII LCOTCL §1.502

DMR.1.5.030 Initial Hearing

(a) Upon filing of a petition, the Children's Court shall schedule an initial hearing. The hearing shall be scheduled to be held within 30 days of the date of the petition if the child has not been taken into custody. If the child has been taken into emergency custody pursuant to Section DMR.1.4.010 of this ordinance, the hearing shall be held as soon as practicable but no more than ten (10) days after the child was taken into custody. All affected persons appearing at the initial hearing shall be served notice of subsequent hearings, either orally in Court on the record, by first class mail or by personal service. The Children's Court may order additional persons to be served.

(b) Any affected person has the right to be heard and to be represented at a hearing by counsel at his or her own expense. The Children's Court may, on its own motion or that of any party, appoint a guardian ad litem for any minor parent, guardian, or custodian of a child subject of a petition.

(c) At the initial hearing, the child and the parent, guardian or custodian shall be informed of their rights as follows:

- (1) The right to remain silent, although the silence may be considered adversely against the party remaining silent.
- (2) The right to confront and cross-examine witnesses.
- (3) The right to an attorney or lay representative at the party's own expense.
- (4) The right to subpoena and present witnesses.
- (5) The right to have the allegations of the petition proven by clear and convincing evidence.
- (6) The right to demand for cause pursuant to Chapter TCT.2, or to request on any other ground, a substitution of judge, which if not made before the close of the initial hearing in the initial matter involving the subject minor, is deemed waived, and any

request for substitution that Chapter TCT.2 does not require to be granted shall be decided in the discretion of the judge.

(d) The child, if age twelve (12) or older, and the non-petitioning parties shall state whether they intend to contest the allegations of the petition.

(e) The Children's Court shall set a date for a plea hearing no later than twenty (20) days from the date of the initial hearing.

(f) If no party intends to contest the allegations of the petition, the Children's Court shall set a date for a dispositional hearing no later than thirty (30) days from the date of the initial hearing. If all parties consent, the Children's Court may proceed immediately with the dispositional hearing.

(g) If the petition is contested, the Children's Court shall set a date for an adjudicatory hearing no later than forty-five (45) days from the date of the initial hearing.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.5.030 was formerly codified as VII LCOTCL §1.503

DMR.1.5.040 Plea Hearing

(a) At the plea hearing, the Children's Court shall obtain the official positions of the interested parties as to whether they contest to the allegations of the petition. If any of the interested parties contest the petition, the matter shall be set for an adjudication hearing in accordance with Section DMR.1.5.050 of this ordinance.

(b) The time limits imposed under this ordinance may be waived by all parties and approved by the judge. The plea, adjudicatory, and dispositional hearings may be combined upon approval of the judge and all interested parties.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.5.040 was formerly codified as VII LCOTCL §1.504

DMR.1.5.050 Adjudicatory Hearing

(a) At the adjudicatory hearing the Children's Court shall determine whether the subject child is within the jurisdiction of the Court pursuant to the allegations of the petition as shown by clear and convincing evidence. In the event jurisdiction is found, the Court shall schedule a dispositional hearing no later than thirty (30) days from the date of the adjudicatory hearing, unless such time limit is waived by all parties and approved by the judge. If all parties consent, the Court may proceed immediately to the dispositional hearing.

(b) The Children's Court may order its jurisdiction over the child to extend for any period of time through one year plus thirty (30) days from the date of a finding of jurisdiction.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.5.050 was formerly codified as VII LCOTCL §1.505

DMR.1.5.060 Dispositional Hearing

(a) At any stage of a proceeding under this ordinance the Children's Court may order a temporary disposition for the child. Such an order may include any disposition authorized by Section DMR.1.5.060(e), below.

(b) Upon entry of an adjudication order, the Children's Court shall determine the disposition appropriate for the child. The Child Welfare Director or the Assistant Child Welfare Director and the petitioning party if other than the Child Welfare Director or the Assistant Child Welfare Director, shall submit reports to the Children's Court summarizing the child's personal history, the circumstances leading to the petition, the resources available and suitable to the child and family, the disposition recommended, and the rationale for the disposition. The report shall specify how the disposition is related to the circumstances leading to the petition and the role each affected person is expected to play in the removal of such circumstances in the future. Any other party may submit such a report. All such reports shall be filed with the Children's Court no later than four (4) days prior to the dispositional hearing, unless all parties waive such time limit. The clerk shall provide copies to the child's guardian ad litem (if any) and counsel for any party, or directly to any party not represented by counsel, together with a notice requiring the recipient to bring the copy of the report to the dispositional hearing, and prohibiting the recipient from copying or allowing any copies of the report to be made. No additional copies shall be made.

(c) Any party requesting out-of-home placement of a child shall submit to the Children's Court, and distribute as provided in Section DMR.1.5.060(b), above, a report enumerating the attempts made to prevent an out-of-home placement, and a statement describing the efforts that will be made to make it possible for the child to return home.

(d) In considering an appropriate disposition, the Children's Court may consider any or all of the following factors:

- (1) Special physical, intellectual, or emotional needs of the child.
- (2) Social, cultural, or religious tradition of the child, the child's family, or the Tribe.
- (3) Availability of resources within the child's extended family.

(4) The child's preference, if the child is over 12 years of age, and the recommendation of any guardian ad litem.

(5) The recommendation of the Child Welfare Director or the Assistant Child Welfare Director or any person with an interest in the child.

(6) Recommendations of professionals experienced in services to children.

(7) Other factors calculated to meet the needs of the individual child and purposes of this chapter.

(e) The Children's Court may order disposition in any or all of the following ways:

(1) Return the child to the custody of a parent, guardian, custodian, or other responsible relative in the child's home, with supervision of the child by the Child Welfare Director or the Assistant Child Welfare Director and subject to such limitations and conditions in the conduct of the child and the parent, guardian, custodian, or other responsible relative, as the Court may prescribe.

(2) Participation of the child and/or parent or custodian in a specified counseling, treatment, or educational program, which may include use of traditional or culturally appropriate services or activities.

(3) Restitution in any reasonable amount for acts of the child resulting in damage to property or injury to any person or the Tribe.

(4) Community service appropriate to the needs or abilities of the child.

(5) Removal of the child from the home and/or placement with a member of the child's extended family, a tribal member licensed foster home, a licensed Indian foster home, an institution for children approved by the Tribe, or any other foster home, subject to such limitations and conditions as the Children's Court may prescribe.

(6) Out-patient or inpatient alcohol, drug, or mental health treatment for specified purposes for a specified period of time.

(7) Allow a child 16 years of age or older to live independently, either alone or with friends or relatives, under such supervision or guardianship as the Children's Court deems appropriate.

(8) Appoint a guardian for a child.

(9) Transfer jurisdiction to another Indian Tribe upon a showing that the child is eligible for membership in that Tribe and has more significant contacts with that tribe

than with the Lac Courte Oreilles Tribe, or upon a showing that the child is a ward of another tribe or the subject of a proceeding in another tribal court.

(10) Recommend that termination or suspension of parental rights proceedings begin.

(11) Visitation by parties or extended family members as appropriate.

(12) Authority to assign attributes of guardianship. Unless otherwise ordered by the Children's Court, the parent or parents with legal custody of a child retain the right to exercise all attributes of guardianship, subject to any foster parent's right to control the day-to-day activities of the child, and to execute consents for daily school activities, not including overnight activities. The Child Welfare Director or the Assistant Child Welfare Director may be granted specific attributes of guardianship, including but not limited to, the right to consent to medical treatment and educational services.

(13) Any other disposition calculated to provide for physical, mental, emotional, or developmental needs of the child.

(f) A dispositional order may be in effect for no longer than one (1) year.

(g) When a child has been found to be in need of care under Section DMR.1.5.010(n) [school truancy] or Section DMR.1.5.010(p) and Section DMR.1.5.010(q) [violation of state, federal, or tribal law] of this ordinance, the Children's Court may in its discretion order disclosure of such facts in the matter as it deems appropriate to the community or to the victim, and may order the child to perform such activities for, with, or on behalf of the community or victim, as appropriate, that may promote rehabilitation of the child or reconciliation of the child with the community or victim.

(h) Any party to a proceeding under this chapter may seek and the Children's Court on its own motion may direct the Child Welfare Director or the Assistant Child Welfare Director to seek enforcement of any Court order in any other appropriate Court.

(i) The Children's Court on its own motion may waive, and any party to a proceeding under this chapter may, by motion and for good cause shown, seek a waiver of, continuing jurisdiction over a child and refer a case to any other Court having jurisdiction in such a case.

(j) In any out-of-home placement of a child, the Children's Court shall require testimony and make findings that services designed to prevent the necessity of out-of-home placement are appropriate and available and have been offered. The Court may, upon request of the petitioning party, accept a report describing the services available and offered in lieu of testimony.

(k) In any out-of-home placement of a child, the Children's Court shall consider and make findings that reasonable efforts were made to prevent out-of-home placement and that continuance of the child in the child's home would be contrary to the child's welfare, and shall further make findings on the availability or appropriateness of custodial care within the child's extended family or with tribal members before ordering a placement in any other home or facility.

(l) Whenever the Children's Court orders a child to be placed outside the home, the Court shall orally inform the parents who appear in Court, and shall include in the written order a statement, of any ground for termination or separation of parental rights under Subchapter DMR.1.6 that may be applicable.

(m) Whenever the Children's Court orders a child to be placed outside the home, the Children's Court shall order reasonable efforts, as appropriate, to be made to return the child home.

(n) Whenever the Children's Court orders a child to be placed outside the home, the Children's Court may make the referral described under Section DMR.1.3.120(b) of this ordinance.

(o) Whenever the Children's Court orders a child placed outside the home, legal custody of the child shall be retained by the parent or parents with legal custody unless the Court specifically orders otherwise, subject to the conditions and limitations imposed by the terms of the dispositional order.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.5.060 was formerly codified as VII LCOTCL §1.506

DMR.1.5.070 Reviews, Extensions, and Modifications

(a) A dispositional order shall be reviewed at the Children's Court's discretion, with a goal of every three months but at least every six months.

(b) At any time in the last sixty (60) days of the period in which a dispositional order issued by the Children's Court or issued by another Court and subsequently transferred to the Children's Court is effective, the Child Welfare Director or the Assistant Child Welfare Director may move for an extension of the Court's dispositional order. Such motion shall be filed with the Children's Court. The Clerk of Court shall serve copies on all affected persons who were parties to the original proceedings, the Child Welfare Director or the Assistant Child Welfare Director, and the guardian ad litem, except that the Court may order additional parties served. Service may be made by first class mail. The motion shall be filed and served together with a notice of hearing on the motion no later than five (5) working days before the hearing. Service may be made by first class mail. The hearing so noticed

will be on the merits of the motion unless the Court otherwise orders. To assist the Court, parties and guardian ad litem, the petitioning party must prepare, file and serve a court report, similar to those called for in Section DMR.1.5.060(b) of this ordinance, and under the same conditions as set forth in Section DMR.1.5.060(b) of this ordinance, along with the petition and notice.

(c) In the event a motion for extension is filed within the time period specified in Section DMR.1.5.070(b) above, the Children's Court may make such temporary extension orders as are necessary to preserve its jurisdiction and to protect the interests of the child pending a full hearing on the extension motion.

(d) The scope of inquiry at the hearing on an extension is whether the conditions that warranted the adjudication continue or whether new circumstances provide jurisdiction pursuant to Section DMR.1.5.010 of this ordinance. If an extension is sought on the ground of new circumstances, the circumstances justifying extended jurisdiction shall be alleged in the petition.

(e) Upon motion by any person with an interest in the child who was a party to the original proceedings or the Child Welfare Director or the Assistant Child Welfare Director, the Children's Court may, for good cause shown, modify a dispositional order any time during the effective period of the order sought to be modified. Such motion shall be filed with the Children's Court. The Clerk of Court shall serve affected persons who were parties to the original proceedings, the Child Welfare Director or the Assistant Child Welfare Director, and any guardian ad litem, except that the Children's Court may order additional parties served. Service may be made by first class mail. The motion shall be filed and served together with a notice of hearing on the motion. The hearing so noticed will be on the merits of the motion unless the Court otherwise orders. To assist the Court, parties and guardian ad litem, the petitioning party must prepare, file and serve a court report, similar to those called for in Section DMR.1.5.060(b) of this ordinance, and under the same conditions as set forth in Section DMR.1.5.070(b) above, along with the motion.

(f) A motion to extend a dispositional order may include a motion to modify the order.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.5.070 was formerly codified as VII LCOTCL §1.507

DMR.1.5.080 Permanency Planning

(a) The Child Welfare Director or the Assistant Child Welfare Director shall prepare a court report pursuant to Section DMR.1.5.060(b) of this ordinance including the permanency planning requirements specified in Section DMR.1.5.080(b) below, in every case where an out-of-home placement is ordered.

(b) The permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance shall describe the following:

(1) The services offered to prevent out of home placement and to facilitate the child's return to home.

(2) The basis for the decision to hold the child in custody or to place out of home.

(3) The current and future planned location and types of placement for the child.

(4) If the child is placed more than 60 miles from the child's home, include a statement that a closer placement is either unavailable or inappropriate.

(5) The appropriateness of the services provided to meet the needs of the child and the family, including a discussion of services that have been considered but are not available, or not likely to become available, or are not being offered and why.

(6) The services that will be offered to carry out the dispositional order; to insure proper care and treatment of the child and to promote stability in the placement; to meet the child's physical, social, emotional, educational, and vocational needs; and to facilitate return of the child to home or to obtain an alternative permanent placement.

(7) The conditions, if any, upon which the child will be returned to home, including any changes required in the conduct of the parents or guardians, the conduct of the child, or the nature of the home.

(c) The Children's Court shall review the permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance with a goal of every three months but at least every six months from the first date on which the child was held in physical custody or was placed outside the home. No less than ten (10) days before the review, the Clerk of Court shall notify in writing the parents or guardians, the child if over twelve (12) years of age, the foster parents, the Child Welfare Director or the Assistant Child Welfare Director, the tribal attorney, and the guardian ad litem of the date, time, and place of the review, of the issues to be determined in the review, and that they may submit written comments no less than five (5) days before the review. Upon receipt, the Clerk of Court shall submit any comments submitted pursuant to this paragraph to the Child Welfare Director or the Assistant Child Welfare Director, the Tribe's attorney and any guardian ad litem.

(d) Within fifteen (15) days of the review of the permanency planning requirements, the Child Welfare Director or the Assistant Child Welfare Director shall prepare a written report of the determinations made under Section DMR.1.5.080(e) below, and shall provide a copy to the Clerk of Court.

(e) At the review of the permanency planning requirements the Children's Court shall determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of compliance with the plan by the Child Welfare Director or the Assistant Child Welfare Director, other service providers, the child's parents or guardians, and the child.

(3) The extent of efforts to involve other service providers to meet any special needs of the child or family.

(4) The progress toward eliminating the causes for the out of home placement and toward returning the child home or to another permanent placement.

(5) The date by which it is likely the child will be returned home, placed for adoption, placed under legal guardianship, or otherwise permanently placed.

(6) Whether reasonable efforts have been made by the agency to make it possible to return the child home.

(7) If the child has been placed out of home for two years or more, the appropriateness of the permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance and the circumstances which prevent the child from:

(A) Being returned home.

(B) Having a termination of parental rights petition filed.

(C) Being placed for adoption.

(D) Being placed in sustaining care.

(f) Any party may move the Children's Court for any appropriate modifications in the dispositional order based on the permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance.

(g) The permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance and reviews shall comply with all applicable provisions of federal law and of any applicable 161 Agreement.

(h) In the case of a child who has been in foster care, which has been paid for from funds provide under a 161 Agreement, for 15 of the most recent 22 months, or, if a Court of competent jurisdiction has determined a child to be an abandoned infant (as defined under

the Tribe's law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the Child Welfare Director or the Assistant Child Welfare Director shall file a petition to terminate the parental rights of the child's parents unless

(1) The child is being cared for by a relative;

(2) The Child Welfare Director or the Assistant Child Welfare Director has documented in the case plan (which shall be available for Children's Court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(3) The Child Welfare Department or such other agency as is primarily responsible for providing services to the child and the family has not provided to the family of the child, consistent with the time period in the child's permanency plan, such services necessary for the safe return of the child to the child's home, if reasonable efforts are required by the court order or permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.5.080 was formerly codified as VII LCOTCL §1.508

Subchapter DMR.1.6 Termination or Suspension of Parental Rights



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DMR.1.6.010 Effect of Termination; Petition and Hearing Required

(a) Termination of parental rights means that, pursuant to court order, the legal relationship of parent and child is permanently severed. The effect of a decree of termination of parental rights is to permanently end the parent-child relationship, to remove the parent from all rights and responsibilities with respect to the child, and to sever all legal relationships, including all rights of intestate distribution and succession, custody, control, and financial responsibility, but shall not affect other familial, religious, or tribal relationships arising out of the natural parent-child relationship.

(b) Termination of parental rights may be ordered only in a proceeding where the petition clearly states that the petitioner is seeking an order of termination of parental rights, and where the mother and father have been summoned to appear before the Children's Court. The parental rights of an unadjudicated or unacknowledged father may be terminated after service of the summons and petition as provided in Section DMR.1.6.060 Section DMR.1.6.060(a) and Section DMR.1.6.060(b) of this ordinance on all persons named by the mother as the possible father or, in the case of an unknown father, after publication of the notice as provided in section Section DMR.1.6.060(b) of this ordinance. If any individual appears claiming paternity and contesting the termination of rights, the Court shall establish paternity to its satisfaction before considering the termination of the individual's parental rights. Where no individual appears claiming paternity and where

paternal parental rights are terminated by default, no such termination will be considered conclusive with regard to the child's rights of membership in the Tribe.

(c) Suspension of parental rights means that, pursuant to court order, the legal relationship of parent and child is suspended as agreed by a biological parent. The effect of a decree of separation of parental rights is to suspend the parent-child relationship, to suspend the parent from all rights and responsibilities with respect to the child, and to suspend all legal relationships, including all rights of intestate distribution and succession, custody, control, and financial responsibility, but shall not affect other familial, religious, or tribal relationships arising out of the natural parent-child relationship.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.010 was formerly codified as VII LCOTCL §1.601

DMR.1.6.020 Grounds for Involuntary Termination

Termination of parental rights may be ordered only in cases where the Children's Court finds beyond a reasonable doubt that one or more of the following grounds exists:

(a) Abandonment.

(1) The child has been left without provision for care or support and without reasonable expectation that a relative or other person would care for and support the child, and the petitioner has investigated and cannot locate the parent.

(2) The child has been outside the care and custody of the parent and has been accessible to the parent, for one year or more, and the parent has failed to visit, support, or communicate with the child for a period of six months or longer. Incidental contact and contact through other persons shall not prevent a finding of no visit or communication.

(b) Failure to remedy condition.

(1) The child has been in out-of-home care for a period of three years and the parent has failed to make substantial progress to remedy the circumstances necessitating out-of-home care.

(2) The child has been adjudicated a child in need of care and placed in out of home care for a period of 18 months or more and the parent has failed to make substantial efforts to remedy the circumstances supporting adjudication and the Children's Court has admonished the parent at least six months prior to the filing of a termination petition concerning the possible termination of parental rights under this subsection.

(c) Abuse. The child is under the jurisdiction of the Children's Court pursuant to Section DMR.1.5.010 of this ordinance and the Court finds that the facts establishing jurisdiction show a pattern of repeated or severe abuse.

(d) Continuing denial of periods of physical placement. The non-custodial parent has been denied all periods of physical placement or visitation rights by a Court or Courts of competent jurisdiction for a period of at least one year, the parent has been warned at least ninety days prior to the filing of a petition that a petition would be filed, and there is no currently pending action to modify the parent's physical placement or visitation rights in a Court of competent jurisdiction.

(e) Failure to assume parental responsibility. The child is a non-marital child whose non-custodial parent has not subsequently adopted the child or married the child's custodial parent and who has not established a substantial parental relationship with the child, as defined in Section DMR.1.2.010(y) of this ordinance.

(f) Absent parent. A parent who has legal custody of a child pursuant to a judgment of divorce or separation or paternity may file a petition to terminate the parental rights of an absent parent if the petitioning parent has had physical placement of the child for at least 48 months prior to the filing of the petition, and if, for at least 48 months prior to the filing of the petition, the other parent has been absent from the household where the child has lived, has not had primary physical placement of the child, has failed to contribute to the support of the child, and has not communicated or attempted to communicate with the child or with the petitioning parent about the child. Incidental communications through other persons shall not prevent a finding of no contact or communication.

(g) Other. The parent's parental rights could be terminated under the law of the state where the child is physically found.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.020 was formerly codified as VII LCOTCL §1.602

DMR.1.6.030 Method for Giving Consent to Voluntary Termination

The Children's Court may terminate the parental rights of a parent who has given his or her informed, voluntary consent by one of the methods provided in this section.

(a) The parent appears personally at a hearing before the judge or magistrate and gives his or her consent, the Children's Court explains the effect of a termination of parental rights, and the Court has questioned the parent and found to its satisfaction that the consent is informed and voluntary.

(b) If the personal appearance of the parent before the Children's Court would be impossible or difficult, the Court may accept written consent executed by the parent before an embassy or consular official, a military judge, or any judge of a Court of record of another jurisdiction, and the consent is accompanied by the official's or judge's written findings that the parent was questioned and that the consent is informed and voluntary.

(c) Any minor parent stating intent to consent to the termination of parental rights shall have a guardian ad litem appointed for him or her by the Children's Court. The minor parent's consent to terminate rights shall not be accepted unless joined by his or her guardian ad litem. The consent of the guardian ad litem shall preclude later attack on the validity of the consent on the grounds of incompetence or minority. The fees and the costs of the guardian ad litem shall be subject to approval of the Children's Court. The guardian ad litem, if an attorney, shall be compensated at the Wisconsin Judicare attorney compensation rate, and if anyone other than an attorney, at the Wisconsin Judicare lay advocate rate.

(d) No consent shall be valid unless it is given no fewer than thirty days after the birth of the child to whom the parent's rights are to be terminated.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.030 was formerly codified as VII LCOTCL §1.603

DMR.1.6.040 Petition for Voluntary or Involuntary Termination

(a) A termination of parental rights, whether voluntary or involuntary, may only be granted upon a petition as provided for in this section.

(b) A petition for termination of parental rights may only be filed by a child's parent, by the Child Welfare Director or the Assistant Child Welfare Director.

(c) The petition commencing a proceeding for termination of parental rights shall set forth the following facts:

(1) The name, birth date, and address of the child or children.

(2) The names, birth dates, and addresses of the child's parents, and the names and addresses of any guardian or custodian. If any item is unavailable, the petition shall state that the information could not be determined after a diligent search.

(3) A statement that consent to termination of parental rights will be given as provided by this subchapter, or a statement that consent will not be given, a statement of the specific section and grounds for involuntary termination under this subchapter, and a statement of facts which petitioner alleges establish the grounds.

(4) A history of all minor in need of care petitions filed regarding the child and a summary of the custody and placement of the child since the filing of the first such petition, or for the past 24 months, whichever is longer.

(d) The Children's Court, upon motion of any party, or upon its own motion, may appoint a guardian ad litem for the child, and for any minor parent, in any proceedings for termination.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.040 was formerly codified as VII LCOTCL §1.604

DMR.1.6.050 Summons

A summons shall be filed with the petition, and shall set forth the following:

(a) The name and birth date of the child.

(b) The nature, location, date, and time of the initial hearing.

(c) Advice that the party summoned has the right to legal counsel at the party's own expense.

(d) Advice that failure to respond or appear at the hearing may result in a termination of the party's parental rights.

(e) Name of petitioner, and name, address, and phone number of petitioner's attorney or lay representative, if any, or of the petitioner if unrepresented.

(f) Advice that parental rights may be terminated at the initial hearing if all who are present so consent.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.050 was formerly codified as VII LCOTCL §1.605

DMR.1.6.060 Service of Summons and Petition

(a) The Clerk of Court shall cause the summons and petition to be served on the parent or parents of the child; any person who may, based on statements of the person or the mother, be the father of the child; the guardian, guardian ad litem, and custodian of the child, as applicable; and the child, if 12 years of age or older, except that no summons and petition need be served on any person who may be the father of a child conceived as a result of sexual assault.

(b) The summons and petition shall be served personally or by certified mail, return receipt requested, with delivery restricted to the addressee, no less than 30 days prior to the initial hearing. If personal service or service by mail cannot with reasonable diligence be accomplished, service may be made by publication one time in a newspaper likely to give notice to the party or upon the tribal website, together with mailing of the summons and petition to the party's last known address. The published notice shall contain the following information:

(1) The name of the party or parties to whom notice is given.

(2) The former address of the party or parties.

(3) The approximate date and place of conception of the child.

(4) The date and place of the birth of the child.

(5) The notice shall not include the name of the mother unless the mother consents. The notice shall not include the name of the child unless the Court finds that inclusion is essential to give effective notice to the father.

(6) Advice that the parental rights of any parent or alleged parent who fails to appear may be terminated.

(7) Advice that any party has the right to representation by counsel at his or her own expense.

(c) Upon motion of petitioner, the Children's Court may waive constructive notice to any person whose identity is unknown but may be the father of the child if such notice appears unlikely to give the father effective notice.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.060 was formerly codified as VII LCOTCL §1.606

DMR.1.6.070 Initial Hearing

(a) An initial hearing shall be held on a petition to terminate parental rights. At the hearing the Children's Court shall determine whether any party wishes to contest the petition.

(b) Any non-petitioning party may, upon request, be granted a continuance for the purpose of consulting legal counsel.

(c) The Children's Court shall determine whether all interested parties, including parties who may be the child's father, have been notified. If the Court determines that an unknown

person may be the father of the child, the Court shall further determine whether constructive notice will substantially increase the likelihood of actual notice to that person. If the Court so determines, it shall adjourn the hearing and order such notice to be given. If the Court determines that constructive notice will not substantially increase the likelihood of actual notice, the Court shall order that the hearing proceed.

(d) At the initial hearing, the child and the parents, guardian or custodian shall be informed of their rights as follows:

(1) The right to remain silent, although the silence may be considered adversely against the party remaining silent.

(2) The right to confront and cross-examine witnesses.

(3) The right to counsel at the party's own expense.

(4) The right to subpoena and present witnesses.

(5) The right to have the allegations of the petition proven by clear and convincing evidence.

(6) The right to demand for cause or pursuant to Chapter TCT.2, a substitution of judge, which if not made before the close of the initial hearing is deemed waived.

(e) If the petition is contested, the Children's Court shall set a date for an adjudicatory hearing no later than 45 days after the date of the initial hearing, unless all parties consent to an immediate hearing, in which case the Court may immediately so proceed.

(f) If the petition is not contested, the Children's Court shall explain the effect of a termination of parental rights and shall question the parents consenting to termination in order to determine if such consent is informed and voluntary. The Court shall make findings of fact on the record supporting its conclusions that consent is informed and voluntary before proceeding further with a voluntary termination. The Court shall set a date for a dispositional hearing no later than 45 days from the date of the initial hearing, unless all parties consent to an immediate hearing and the report required by Section DMR.1.6.090(a) of this ordinance has been filed, in which case the Court may immediately so proceed.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.070 was formerly codified as VII LCOTCL §1.607

DMR.1.6.080 Fact Finding Hearing

At the fact finding hearing the Children's Court shall determine whether the facts alleged in a petition that has been contested are true beyond a reasonable doubt. If the

Court so finds, it shall proceed immediately to a dispositional hearing unless all parties agree to a delay or unless the report required in Section DMR.1.6.090(a) of this ordinance has not been completed, in which case the Court shall set a hearing date no later than 30 days after the fact-finding hearing.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.080 was formerly codified as VII LCOTCL §1.608

DMR.1.6.090 Disposition

(a) A court report must be prepared prior to all terminations of parental rights. If the petition has been filed by the Child Welfare Director or the Assistant Child Welfare Director, the Child Welfare Director or the Assistant Child Welfare Director shall prepare a report to the court including a complete social, adjudicatory, and dispositional history of the child and the parent, a statement of feasible alternative dispositions, if any, and a statement applying the standards and factors contained in Section DMR.1.6.090(b), below. The report shall be filed with the Court and served on the parties no fewer than 10 days before the dispositional hearing. The report shall include a description of efforts made to prevent removal of the child from the home and efforts made, if any, to return the child, and to remedy the conditions resulting in the termination proceeding. If the report recommends termination of both parents, or of the only living or known parent, the report shall include a statement of the child's likelihood of adoption, listing factors that might prevent adoption and factors that might facilitate it, and the interim plan and designated guardian recommended pending adoption or, if adoption is unlikely a plan for the continued care, custody, and guardianship of the child. The report shall also contain a medical and genetic history of the child and birth parents on a form as provided by the Wisconsin Department of Health and Social Services. If the petition has been filed by anyone other than the Child Welfare Director or the Assistant Child Welfare Director, the petitioner shall request an order of the Court appointing either the Child Welfare Director or the Assistant Child Welfare Director or another child welfare agency to prepare a report, provided that the expense of any such report prepared by any agency other than the Tribe's Child Welfare Department shall be borne by the petitioner.

(b) Court considerations. In making a decision about the appropriate disposition, the Children's Court shall consider the standard and factors enumerated in this section.

(1) Standard. The best interests of the child shall be the prevailing factor considered by the Children's Court in determining the disposition of all termination of parental rights proceedings.

(2) Factors. In considering the best interests of the child under this subsection the Children's Court shall consider but not be limited to the following:

(A) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home;

(B) The wishes of the child;

(C) The duration of the separation of the parent from the child;

(D) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

(c) Any party may present evidence relevant to disposition, and may propose alternative dispositions. The Children's Court shall order either disposition listed below no later than ten days after a hearing on disposition.

(d) Upon a finding that grounds exist for a termination of parental rights the Children's Court shall order one of the following dispositions.

(1) The Court may dismiss the petition.

(2) The Children's Court may order the termination of parental rights of one or both parents. If the rights of both parents or of the only living or known parent is terminated, the Court shall transfer guardianship of the child to the Child Welfare Director or the Assistant Child Welfare Director, the Wisconsin Department of Health and Social Services, a relative of the child with whom the child resides if the relative has filed a petition for adoption, or an individual who has been appointed guardian of the child by a Court of competent jurisdiction. The Court may also transfer custody of the child to one of the agencies listed above, or to a relative or other individual if the child has resided in the home of that individual for a meaningful period of time prior to the termination. The child may be placed with the guardian, with a relative, or foster home, or, if sixteen or older, may be allowed to live independently alone or with friends or relatives under such supervision as the Court deems appropriate.

(3) Termination of parental rights shall not affect a child's tribal enrollment or eligibility for tribal member benefits.

(4) Termination of parental rights shall not itself be grounds for prohibiting contact with the child by other relatives, and an order permitting such contact may be entered in the termination case, but any order permitting such contact shall be based on the protection of the best interests of the child.

(5) The Children's Court shall inform any parent whose rights have been terminated of the provisions of Wis. Stats. §§ 48.432 and 48.433 and of Section DMR.1.8.070(b) of this ordinance, relating to medical and identifying information.

(6) Any parents whose rights have been terminated shall have a continuing duty to inform the Children's Court of any information he or she receives regarding any medical or genetic condition that may affect the health or longevity of the child or the child's issue. The parent shall be informed of this duty by the Court.

(7) Any order under this subsection shall be reduced to writing and filed within thirty (30) days of its rendition.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.090 was formerly codified as VII LCOTCL §1.609

DMR.1.6.100 Suspension of Parental Rights

The Children's Court may suspend the parental rights of a parent who has given his and/or her informed, voluntary consent as provided in this subsection.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.100 was formerly codified as VII LCOTCL §1.610

DMR.1.6.110 Petition for Suspension of Parental Rights

(a) Any adult or agency possessing custody of a minor child may file a petition with the Clerk of Court seeking an order for the suspension of the parental rights of child. The petition shall begin with the caption, "In re the Suspension of Parental Rights of (names of biological parents) to (name of child), born (birthdate of child)." The petition shall contain the following information:

(1) The name, address, and telephone number of the child's tribe;

(2) The name, address, telephone number and age of the child's parent whose parental rights are to be suspended;

(3) The name, address, and telephone number of the petitioner and the petitioner's relationship, if any, to the child;

(4) The name, address, and telephone number of any other relatives who may have an interest in the care, custody, and control of the minor child;

(5) A statement as to why an order for suspension of parental rights of the parent is in the best interest of the child and the child's tribe;

(6) A statement as to basis for the request of the suspension of parental rights, supported by medical, psychiatric, child protection worker, family member and/or psychological reports or testimony;

(7) A statement that no similar action is pending in a state or another tribal court having jurisdiction over the child.

(b) The petitioner shall sign the petition in the presence of a notary public and shall affirm under oath that the contents are true and correct except as to those matters based upon belief and, as to those matters, the petitioner reasonably believes them to be true.

(c) The petition shall be filed with the Clerk of Court, with copies served, by the petitioner, on the Child Welfare Director or the Assistant Child Welfare Director, family member, caretaker if any, and appropriate agencies of the Tribe which may have an interest in the proceeding or be of assistance to the Court in adjudicating the matter. The petition shall be served in the manner provided for in Chapter TCT.2.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.110 was formerly codified as VII LCOTCL §1.611

DMR.1.6.120 Notice of Hearing on Petition to Suspend Parental Rights

Upon the filing of a petition seeking an order for the suspension of parental rights, the Clerk of Court shall schedule a hearing to be held thereon and shall cause written notice of such hearing to be served upon the petitioner; the child's tribe; the child's parent(s); family members; caretaker, if any; and appropriate agencies of the Tribe which may either have an interest in the proceeding or be of assistance to the Children's Court in adjudicating this matter. Such notice shall be served in the manner provided for in Chapter TCT.2. A Guardian ad Litem may be appointed to assist the Court in determining the best interests of the child. The petitioner(s) biological parents and Guardian ad Litem enjoy automatic party status.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.120 was formerly codified as VII LCOTCL §1.612

DMR.1.6.130 Hearing on Petition to Suspend Parental Rights

(a) Attendance at Hearing.

(1) The biological parent(s) and petitioner shall be present at the hearing in person or by telephone unless he or she has waived the right to appear in writing executed

before the Clerk of Court or a notary and filed with the Court, or unless the parent is unable to attend by reason of a medical condition as evidenced by a written statement from a licensed physician or other appropriate professional.

(2) The petitioner shall be present at the initial hearing. The petitioner's failure to appear shall be grounds for dismissal of the petition.

(b) Conduct of the Hearing.

(1) The Court shall inform the parent(s) of their rights under this ordinance and of the nature and consequences of the proceeding. In addition to any other rights offered under the *Indian Civil Rights Act*, 25 U.S.C. § 1301-03 (1968), as amended, or enumerated with the Lac Courte Oreilles Tribal Code of Law, petitioners, and other parties have the following rights:

(A) A biological parent has the right to refuse services provided by any social services agency; however, their refusal to accept services may have significant impact on their ability to have contact with their children.

(B) The parties have the right to have reasonable notice and to attend any hearing arising out of the filing of a petition for suspension of parental rights pursuant to this subchapter. The biological parents and the petitioner have the right to be represented by council at their own expense at all proceedings.

(C) The parties have the right to summon and cross-examine witnesses.

(D) The biological parents and the petitioner have the right to seek independent medical, psychological or psychiatric evaluation of the child at their own expense.

(2) The Court shall inform all other parties of their right under the Lac Courte Oreilles Tribal Code of Law pursuant to the *Indian Civil Rights Act*, 25 U.S.C. § 1301-03 (1968), as amended, including the right to summon and cross-examine witnesses.

(3) The Court shall hear evidence on the matter, if the Court determines that the biological parent(s) have given, his, her, or their informed and voluntary consent to the suspension of parental rights.

(4) The rules of evidence of Chapter TCT.4 shall apply.

(5) The burden of proving the allegation of the petition shall be upon the petitioner and the standard of proof shall be clear and convincing evidence. There shall be a legal presumption of parent's ability to parent until proven otherwise.

(6) The Children's Court may continue the hearing, upon a showing of good cause, at the request of any party to the proceeding and enter such temporary orders, if any, as may be deemed just and reasonable to carry out the purposes of this subchapter.

(c) Findings on the Petition to Suspend Parental Rights.

(1) In all cases, the Children's Court shall make specific written findings of fact, state separately its conclusions of law, and enter an appropriate judgment or order.

(2) The Children's Court may make findings that it is in the child's best interest that a final order suspending the parental rights be entered and the Court shall specify the basis of those findings.

(3) The Children's Court shall complete the final hearing within forty-five (45) days of the initial hearing.

(d) Final Order on Petition to Suspend Parental Rights.

(1) If the Court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a suspension of parental rights. Such an order for the suspension of parental rights may include, but is not limited to the following:

(A) A suspension of the parental rights of the parent, including the suspension of the right to the care, custody, and control of the minor child and allowing the child to be adopted;

(B) A suspension of the right of the parent to have contact with the minor child including contact in person, by mail, by telephone or through third parties or the order may allow for a contact agreement agreed upon by the parties to be ordered by the Court;

(C) Restraining a parent from contacting the minor child, the child's foster parent, the child's adoptive parent and/or the social services agency or agencies possessing information regarding the minor child, or by an agreement;

(D) Ordering that the biological parents' obligation to pay child support, except for arrearages, is hereby terminated.

(E) Ordering that any prior court order for custody, visitation, or contact with the minor child is hereby terminated; and

(F) Ordering that the parent shall have no standing to appear at any future legal proceedings involving the child.

(2) The suspension of parental rights does not sever or affect in any way a child's relationship to his/her Tribe or any rights of inheritance from the biological parent(s). A suspension of parental rights does not require a change on the child's birth certificate.

(3) The final order shall contain a statement regarding why it is in the best interests of the child and the child's tribe to enter this order.

(4) Copies of any order for the suspension of parental rights shall be served upon the parent and the agency or agencies having legal custody of the child and any other parties as directed by the Children's Court.

(5) Final orders for the suspension of parental rights may be reviewed by the Children's Court at the request of the biological parent, the agency or agencies possessing custody of the child only if one of the following occurs: if there is no final dispositional order based on the permanency planning requirements of the court report prepared pursuant to Section DMR.1.5.060(b) of this ordinance, in effect after a period of one (1) year after the entry of the final order suspending parental rights; the adoption of the child fails; the adoptive parent is deceased; or if the adoptive parent(s) joins in the biological parents request for review. Notice of this review shall be provided to all parties to the hearing at which the final suspension of parental rights order was issued.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.6.130 was formerly codified as VII LCOTCL §1.613

**Subchapter DMR.1.7
Guardianship**



DMR.1.7.010 Petition for Guardianship..... DMR.1.7-1
 DMR.1.7.020 Notice of Hearing DMR.1.7-2
 DMR.1.7.030 Service of Notice of Hearing and Petition..... DMR.1.7-2
 DMR.1.7.040 Guardianship Hearing DMR.1.7-3
 DMR.1.7.050 Appointment of Guardian DMR.1.7-4
 DMR.1.7.060 Termination or Change of Guardianship DMR.1.7-4
 DMR.1.7.070 Voluntary Consent to Exercise Custodial Rights..... DMR.1.7-4

DMR.1.7.010 Petition for Guardianship

(a) Upon petition by any person with a legitimate interest in the welfare of the child, including persons with an interest in the child, including persons with an interest as defined in Section DMR.1.2.010(u) of this ordinance, the Children's Court may appoint a guardian for a child who is without both parents or whose parents are unable to care for the child. Except when the petitioner is a person with an interest in the child as defined in Section DMR.1.2.010(u) of this ordinance, the decision to allow a person to petition for the appointment of a guardian shall be in the Court's discretion. The Court may impose any restriction or limitation on the powers of a guardian, or condition its appointment on the guardian's performance of specified duties, not inconsistent with this subchapter, it finds will help protect the child's interest.

(b) The Children's Court may appoint a guardian of the child to exercise custody and the power to make daily and major decisions of importance to the child's health, education, support, and welfare, regarding any child as who has no living parent or whose parents are unavailable for reason of incarceration or commitment or otherwise unable to care for the child. Such a guardian shall be known as a "guardian of the child." A guardian of the child may not manage the financial interests of the child but may act as custodian with regard to ordinary property in the child's possession.

(c) The Children's Court may appoint a guardian of the child's estate to conserve the assets, income, and financial interests of any child who has no living parent or whose parents are unavailable for reason of incarceration or commitment or otherwise unable to care for the child. Such a guardian shall be known as a "guardian of the child's estate." A guardian of the child may be appointed guardian of the child's estate or separate guardians may be appointed.

(d) A petition for guardianship shall state:

(1) The name, residence, address, post office address, and date of birth of the proposed ward, the petitioner, and of the proposed guardian or guardians.

(2) The reason guardianship is sought.

(3) Whether temporary or permanent guardianship is sought.

(4) Whether a guardian of the child or a guardian of the child's estate or both is sought.

(5) The income and assets of the proposed ward.

(6) Whether any guardian of the proposed ward now exists.

(7) A statement as to how the child has become, or will become, eligible for guardianship.

(e) Upon receiving for filing a petition for guardianship, the Children's Court may appoint a guardian ad litem for the proposed ward.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.7.010 was formerly codified as VII LCOTCL §1.701

DMR.1.7.020 Notice of Hearing

The notice of hearing shall state the time, date, and place of hearing on the petition, the names of the proposed ward and guardian, and the name, address and telephone number of the petitioner and the petitioner's attorney, if any.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.7.020 was formerly codified as VII LCOTCL §1.702

DMR.1.7.030 Service of Notice of Hearing and Petition

(a) The notice of hearing and petition shall be served by the petitioner upon any parent of the proposed ward, any current guardian or custodian of the proposed ward, the Child Welfare Director or the Assistant Child Welfare Director, and the guardian ad litem, if any. The Clerk of Court may serve the summons and petition on behalf of the petitioner. The Child Welfare Director or the Assistant Child Welfare Director is not required to appear in a guardianship case under this subchapter, but at the director's discretion may appear and participate as a party.

(b) The notice of hearing and petition shall be served personally or by first class mail, no less than ten days prior to the hearing. If personal service or service by mail cannot with

reasonable diligence be accomplished, service may be made by publication in a newspaper likely to give notice to the party or upon the tribal website, together with mailing of the summons and petition to the party's last known address. The published notice shall contain the following information:

(1) The name of the party or parties to whom notice is given.

(2) The former address of the party or parties.

(3) The approximate date and place of conception of the child.

(4) The date and place of the birth of the child.

(5) The notice shall not include the name of the child, petitioner, or parents, or proposed guardian.

(6) Advice that a guardian of the child or of the child's estate may be ordered at the hearing.

(7) Advice that any party has the right to representation by counsel at his or her own expense.

(c) Upon motion of petitioner or of any other party, the Children's Court may waive constructive notice to any person if such notice appears unlikely to give effective notice.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.7.030 was formerly codified as VII LCOTCL §1.703

DMR.1.7.040 Guardianship Hearing

(a) At the hearing on the petition the Children's Court shall hear the petitioner's evidence and the evidence offered by any other party. If the Court is satisfied by clear and convincing evidence that the appointment of a guardian is in the best interests of the child the Court shall appoint a guardian who by a preponderance of the evidence appears most suitable.

(b) In lieu of a hearing, all parties may enter into a written stipulation allowing the Children's Court to appoint a guardian under this subchapter.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.7.040 was formerly codified as VII LCOTCL §1.704

DMR.1.7.050 Appointment of Guardian

(a) The Children's Court may appoint a guardian of the child, a guardian of the estate, or both, as requested in the petition. The guardianship so established may be temporary or permanent, as requested in the petition.

(b) The Children's Court may impose restrictions or limitations on the powers of a guardian, and may condition the appointment on the guardian's performance of specified duties.

(c) A guardian of a child shall report annually to the Children's Court, on forms provided by the Court, on the care and status of the child, and a guardian of the estate of a child shall report annually to the Court, on forms provided by the Court, on the income, assets, expenses, and debts of the child. The order appointing guardian shall fix a date or dates for the filing of such reports.

(d) The Children's Court may require the guardian of a child's estate to post a bond, and may impose other conditions to protect the child's interests.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.7.050 was formerly codified as VII LCOTCL §1.705

DMR.1.7.060 Termination or Change of Guardianship

(a) A guardianship may be altered or terminated, or a new guardian appointed, by the same procedures as established by this subchapter for the appointment of a guardian.

(b) Any guardianship created under this subchapter shall terminate upon its terms but in no event later than upon the ward's eighteenth birthday.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.7.060 was formerly codified as VII LCOTCL §1.706

DMR.1.7.070 Voluntary Consent to Exercise Custodial Rights

The parent or parents with legal custody of a child may enter into a voluntary agreement with an adult or adults transferring the rights of custody to the child to the designated adult or adults. The parties may present the agreement to the Children's Court for approval, and if approved the agreement may not be revoked by any party except with the consent of the other party or parties, or pursuant to the terms of the agreement, or with

Court approval. Such an agreement, whether or not approved by the Children's Court, does not affect the rights of any person who is not a party to the agreement.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.7.070 was formerly codified as VII LCOTCL §1.707

**Subchapter DMR.1.8
Adoption and Customary Adoption**



DMR.1.8.010 Effect of Adoption and Customary Adoption; Who May Adopt and Be Adopted DMR.1.8-1

DMR.1.8.020 Petition DMR.1.8-2

DMR.1.8.030 Service of Petition and Notice of Hearing..... DMR.1.8-3

DMR.1.8.040 Investigation and Report DMR.1.8-4

DMR.1.8.050 Hearing on the Petition; Order..... DMR.1.8-4

DMR.1.8.060 Customary Adoption..... DMR.1.8-5

DMR.1.8.070 Visitation Rights..... DMR.1.8-7

DMR.1.8.080 Records DMR.1.8-7

DMR.1.8.090 Agreements Between Birth Mothers and Adoptive Parents DMR.1.8-8

DMR.1.8.010 Effect of Adoption and Customary Adoption; Who May Adopt and Be Adopted

(a) Upon entry of the order of adoption (including customary adoption), the relation of parent and child together with all the rights, duties, and other legal consequences of the natural relation of parent and child exist between the adoptive parents and adopted child.

(b) Adoption (including customary adoption) shall not affect the child's enrollment status as a member of any tribe.

(c) Any child as defined Section DMR.1.2.010(h) of this ordinance may be adopted (including customary adoption), provided that all parental rights have been severed by Court action or the death of the parent.

(d) The following are eligible to adopt (including customary adoption) a child:

(1) A married couple jointly who are both adults, or either if the other spouse is a parent of the child to be adopted,

(2) An unmarried or legally separated person who is at least 21 years of age,

(3) The child's natural father, if for any reason the father's paternity is not otherwise recognized.

(4) Two unmarried persons co-habiting for a substantial period of time as a married couple.

(5) An adult for purposes of a customary adoption.

(e) The consent of the following, given in Court before the judge or magistrate, unless good cause is shown for some alternate method of consent, are required for adoption (including customary adoption):

(1) The child if twelve (12) years or older, unless the Children's Court determines that the child is incapable of giving consent, and

(2) The parent or parents if living, including the adjudicated or acknowledged father of a non-marital child, unless parental rights have been terminated or suspended.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.010 was formerly codified as VII LCOTCL §1.801

DMR.1.8.020 Petition

(a) A petition for adoption (including customary adoption) pursuant to this subchapter may be filed at any time if:

(1) The child is the extended family as Section DMR.1.2.010(o) of this ordinance, of one of the petitioners, or

(2) The child is placed, by an order of the Court, with one of the petitioners.

(3) The petitioner is seeking customary adoption of the child.

(b) Except as provided under Section DMR.1.8.020(a) above, no petition for adoption may be filed unless the child has been living in the home of the petitioner for more than six (6) months.

(c) A petition shall include:

(1) The name(s), age(s), and address of the petitioner(s) and his or her relationship to the child, and a statement of the petitioner(s) eligibility to adopt.

(2) The name, address, and date of birth, or expected date of birth, of the child to be adopted, and the tribe in which the child is, or is expected to be, a member.

(3) The name, address, and age of the birth parents.

(4) The identity of all persons or agencies which solicited, negotiated, or arranged for the adoption on behalf of any party.

(5) A report of all transfers of anything of value made or agreed to be made by the proposed adoptive parents or on their behalf in connection with the birth of the child, the placement of the child with the proposed adoptive parents, the medical or hospital care received by the child or by the child's mother in connection with the birth of the child and any other expenses, including the estimated legal expenses, of either the child's parent or the proposed adoptive parents, including a copy of any written agreement between the birth parent and adoptive parent. The report shall be itemized and shall show the services relating to the adoption or to the placement of the child for adoption which were received by the proposed adoptive parents, by either parent, by any other person to whom payment was made by or on behalf of the proposed adoptive parents. The report shall also include the dates of each payment, the names and addresses of each attorney, doctor, hospital, agency or other person or organization receiving any funds from the proposed adoptive parents in connection with the adoption or the placement of the child with them.

(6) A statement of the tribal membership, if any, and domicile of each of the birth parents and each of proposed adoptive parents.

(7) A statement as to how the child has become, or will become, eligible for adoption (including customary adoption). If the birth parents' parental rights are not terminated or suspended, a statement must be included that a petition for separation of parental rights has been filed and that consent will be given. If rights have been terminated or suspended, a certified copy of the court order terminating or suspending the rights shall be attached to the petition. If a child is eligible for adoption (including customary adoption) because one or both parents are deceased, a certified copy of the death certificate(s) shall be attached to the petition.

(8) A request for the issuance of an order of adoption (including customary adoption).

(9) The proposed name of the adoptee after the entry of the final order of adoption (including customary adoption).

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.020 was formerly codified as VII LCOTCL §1.802

DMR.1.8.030 Service of Petition and Notice of Hearing

(a) The petitioner shall cause the petition and notice of the hearing provided for in Section DMR.1.8.050 of this ordinance to be served on the Child Welfare Director or the Assistant Child Welfare Director and the child, if twelve (12) years of age or older. The Clerk of Court may serve the parties on behalf of the petitioner.

(b) The notice of hearing and petition shall be served personally or by first class mail.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.030 was formerly codified as VII LCOTCL §1.803

DMR.1.8.040 Investigation and Report

(a) Upon filing of the petition, the Child Welfare Director or the Assistant Child Welfare Director, or another child welfare agency as ordered by the Children's Court, shall perform an investigation as to the suitability of the petitioner as the child's adoptive parent. The report shall include a history of the child, including his or her mental and physical health and family background; the mental, physical, and financial condition of the petitioners, and any other factors useful in determining their fitness as parents and the suitability of their home as a home for the child; and any other circumstances and conditions which may have a bearing on the adoption and of which the Court should have knowledge. The report shall include the blood quantum's of both birth parents, if known. The enrollment office will cooperate with the Child Welfare Director or the Assistant Child Welfare Director in preparing this information for inclusion in the report. The Child Welfare Director or the Assistant Child Welfare Director shall complete the report and file it with the Court, providing a copy to the petitioner no less than ten days before the hearing provided for in Section DMR.1.8.050 of this ordinance. The report shall contain a definite recommendation for or against the adoption and shall state the reasons therefore. If the report is unfavorable or discloses a situation which in the Court's opinion raises a serious question as to the suitability of the proposed adoption, the Court may appoint a guardian ad litem for the child who shall make an independent recommendation. The Court may order the petitioner or adoptive parent to pay the costs of the investigation and report, and of the guardian ad litem.

(b) In the case of a step-parent adoption, the investigation and report shall be limited to one interview with the petitioner and a review of locally available public records, unless the agency performing the evaluation requests a specific court order permitting further investigation.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.040 was formerly codified as VII LCOTCL §1.804

DMR.1.8.050 Hearing on the Petition; Order

(a) Upon receipt of a petition, the Clerk of Court shall set a date for hearing no more than 120 days from the filing of the petition.

(b) At the hearing, the presence of the petitioners and the child, if the child is twelve (12) years of age or older, shall be required unless the court orders otherwise. The Children's Court shall determine from the Child Welfare Director or the Assistant Child Welfare Director's report and any evidence presented by the petitioners or other parties whether the petitioners are suitable adoptive parents. The Court may question the child concerning his feelings about the adoption, and ascertain if the child's consent, when required, is voluntary. If the Court determines that granting the petition is in the child's best interest, it shall so order.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.050 was formerly codified as VII LCOTCL §1.805

DMR.1.8.060 Customary Adoption

(a) Guiding Philosophy for Customary Adoption.

(1) It is the fundamental belief of the Tribe that its children are the sacred responsibility of the Tribe.

(2) One of the Tribe's basic inherent sovereign rights is the right to make decisions regarding the best interest of its children including who should provide for the care, custody and control of its children. This section is intended to assure a safe, stable, nurturing, and permanent environment for the Tribe's children and to provide for the protection of our children, our people, and our way of life.

(3) The principles that shall guide decisions pursuant to this ordinance are: the protection of the child's safety, well-being and welfare and their sense of belonging; preservation of the child's identity as a tribal member and member of an extended family; preservation of the culture, religion, language, values, clan system, and relationships of the Tribe.

(4) As an exercise of its inherent sovereignty the Tribe has the authority and jurisdiction to formally delegate the authority of its Children's Court to adjudicate its own customary practices regarding child rearing and child custody.

(b) Purpose of Customary Adoption. Customary adoption shall be liberally construed as an exercise of the inherent sovereign authority of the Tribe to fulfill the following express purposes:

(1) To embody and protect the basic traditional values of the Tribe regarding the protection and care of the Tribe's children. The Tribe believes that it is the responsibility of the Tribe, the tribal communities and extended families to protect, care for, and nurture our children.

(2) To promote the belief of the Tribe that children deserve a sense of permanency and belonging throughout their lives and at the same time they deserve to have knowledge about their unique cultural heritage including their tribal customs, history, language, religion, and values.

(3) To provide for the best interests of the Tribe, tribal communities and the Tribe's children.

(4) To afford judicial processes which allow for formal adjudications that address the issues of rights, responsibilities, care, custody and control of minor children when the biological parents are unable or unwilling to provide for a safe, stable nurturing and permanent environment for their children by conferring jurisdiction upon the Children's Court to hear and adjudicate such matters.

(c) Petition for Customary Adoption.

(1) A petition for customary adoption pursuant to this subchapter may be filed by any adult seeking the customary adoption of a minor child whose parents' parental rights have been terminated or suspended. The petition shall including the following information in addition to the adoption petition information required pursuant Section DMR.1.8.020(c) of this ordinance:

(A) A statement as to why a final order for customary adoption is in the best interests of the child and the best interests of the child's tribe.

(B) A statement as to the basis for the customary adoption supported by a home study required pursuant Section DMR.1.8.040(a) of this ordinance, ceremonial leader, traditional elder, medical doctor, psychiatric doctor, child protection worker, family member, and/or psychological reports or testimony.

(C) A statement that no similar action is pending in another tribal or state Court having jurisdiction over the child.

(d) Notice of Hearing on Petition for Customary Adoption. The customary adoption petition and notice of the hearing shall be served in the manner required pursuant to Section DMR.1.8.030 of this ordinance. In addition, the customary adoption petition and notice of the hearing shall also be served upon the child's tribe, appropriate family members, if any; caretaker, if any; and appropriate agencies of the Tribe which may have an interest in the proceeding or be of assistance to the Court in adjudicating the matter. The Clerk of Court may serve the parties on behalf of the petitioner.

(e) Hearing on Petition for Customary Adoption. The hearing on the customary adoption petition shall be conducted in the manner required pursuant to Section DMR.1.8.050 of this ordinance.

(f) Final Order for Customary Adoption. If the Children's Court determines that it is in the best interests of the child and the child's Tribe, it shall issue a final order for a customary adoption in the manner required pursuant to Section DMR.1.8.050(b) of this ordinance. Such an order may include, but is not limited, to the following:

(1) A statement that the child has been adopted by the petitioner(s) and that the parent-child bond is hereby established and that all rights and responsibilities of that relationship shall exist upon the entry of such a final order.

(g) Certification of a Customary Adoption.

(1) A customary adoption, conducted in a manner consistent with this section is a long established, continued, reasonable process and considered by the Children's Court as having the same effect as an adoption order issued by this Court so long as it is in the best interests of the child and the child's Tribe.

(2) A decree certifying a customary adoption has the same effect as a decree or final order of customary adoption issued by this Court.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.060 was formerly codified as VII LCOTCL §1.806

DMR.1.8.070 Visitation Rights

(a) A person who within the two years prior to the date of the petition for adoption has maintained a close relationship with an adopted child may petition the Court to be awarded visitation rights, upon hearing and after notice of the hearing to the child's parents (as determined after entry of the order in an adoption, including customary adoption). Notice shall be served on the parents personally or by certified mail, return receipt requested, restricted delivery.

(b) The Children's Court may award visitation if the Court determines visitation is in the child's best interest and that the petitioner will not interfere in or act contrary to the parental decisions of the parents.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.070 was formerly codified as VII LCOTCL §1.807

DMR.1.8.080 Records

(a) The Children's Court may not disclose the records of any adoption except as provided for in this section.

(b) A copy of the medical and genetic history report, as provided in Section DMR.1.6.090(a) of this ordinance, with the names and other identifying data of the birth parents and of the birth parents' or child's' health care provider removed, shall be provided to the adoptive parents upon entry of the final judgment of adoption. The Court may, in its discretion, disclose information as needed from the report, including the entire report, to the adoptive parents after entry of a temporary order and before entry of the final judgment. Additional information supplied to the Court under Section DMR.1.6.090(d)(5) of this ordinance shall be made available to the adoptive parents upon receipt or upon later request, provided the adoptive parents sign a statement requesting such information and acknowledging that the Court or tribe does not vouch for its accuracy. A copy of the report, and the information and of additional information received under Section DMR.1.6.090(d)(5) of this ordinance shall also be made available, on request, to the child after the child's eighteenth birthday, provided the child signs a statement acknowledging that the Court or tribe does not vouch for the accuracy of the information contained therein. Releases of information under this subsection shall be without charge.

(c) Information confirming membership rights shall be made available upon request to the child's Tribe, the adoptive parents and, after the child has reached the age of eighteen (18) years, to the child. Releases of information under this subsection shall be without charge.

(d) Information regarding the identity of the child's birth parents, may be released to the child upon request after the child has reached the age eighteen (18), if both birth parents have filed with the court affidavits which have not been subsequently revoked, authorizing the Court to release such information, or in the case where one parent was unknown at the time of the termination of parental rights of the other parent, if the known parent has filed with the court an unrevoked affidavit. However, the Children's Court may release information regarding the identity of the child's birth parents to the child upon request after the child has reached the age eighteen (18), without the filing of court affidavits by the birth parents authorizing the Court to release such information so long as Court determines that it is in the best interests of the child and the child's Tribe to do so, subject to the redaction of names or the rights of confidentially as required by Tribal or federal law.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.080 was formerly codified as VII LCOTCL §1.808

DMR.1.8.090 Agreements Between Birth Mothers and Adoptive Parents

(a) Any agreement, to be enforceable between a birth mother and an adoptive parent, where either party is a member of the Tribe, for the payment of fees or expenses, including

those expenses referred to in Section DMR.1.8.020(c)(5) of this ordinance, relating to the adoption of any child as defined in Section DMR.1.8.090(c) below, shall be in writing.

(b) Any agreement between a birth mother and an adoptive parent or parents for the payment of fees or expenses, including those expenses referred to in Section DMR.1.8.020(c)(5) of this ordinance, relating to the adoption of a child may be rescinded by the birth mother at any time up to the time that she gives consent to terminate her parental rights under Section DMR.1.6.030 of this ordinance. If the birth mother rescinds her consent as provided in this section, the adoptive parent or parents shall be entitled to judgment against the birth mother for all fees and expenses paid to her pursuant to the agreement between them.

(c) For purposes of this section "birth mother" means the individual who carries in utero any fetus, however fertilized or implanted. For purposes of this section "child" means any child, regardless of Section DMR.1.2.010(h) of this ordinance and of tribal membership or eligibility for membership, who, while in utero, was carried by a birth mother as herein defined.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.8.090 was formerly codified as VII LCOTCL §1.809

**Subchapter DMR.1.9
Administration**



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DMR.1.9.010 Notices Under the Indian Child Welfare Act

(a) The Child Welfare Director or the Assistant Child Welfare Director is designated as agent for service of notices concerning child welfare proceedings as provided under the Indian Child Welfare Act.

(b) Upon receipt of such notice, the Child Welfare Director or the Assistant Child Welfare Director may consult with such tribal staff as may be necessary to determine the eligibility of the child named in such notices.

(c) Upon a determination that the notice received concerns a Child as defined in Section DMR.1.2.010(h) of this ordinance, the Child Welfare Director or the Assistant Child Welfare Director shall consult with the Legal Department, for the purpose of determining whether to intervene or seek transfer of jurisdiction of the case to the Children's Court.

(d) The Child Welfare Director or the Assistant Child Welfare Director shall determine whether to seek transfer, which determination, upon petition or motion of a person with an interest in the child, may be reviewed and reversed by the Children's Court.

(e) In any non-tribal proceeding, where transfer of jurisdiction is denied or not sought, the Child Welfare Director or the Assistant Child Welfare Director shall maintain a record of all information gathered, actions taken, and documents received.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.9.010 was formerly codified as VII LCOTCL §1.901

DMR.1.9.020 Child Welfare Director and the Assistant Child Welfare Director

(a) General Duties. The Child Welfare Director and/or the Assistant Child Welfare Director shall have the primary responsibility for receiving, investigating, and referring information concerning children who are subject to this ordinance or children who are the subject of child welfare proceedings in other Courts. The Child Welfare Director or the Assistant Child Welfare Director shall develop and monitor appropriate plans and goals to minimize disruption of a subject child's life, to reunify families when possible, and to

encourage long-term stability in an environment that most approximates that of a family. The Child Welfare Director or the Assistant Child Welfare Director shall have the primary responsibility to represent the Tribe in administrative and court proceedings, both in Children's Court and in other Courts, and shall secure the timely assistance of the tribal attorney in cases as necessary and appropriate.

(b) Duties and Authority. The Child Welfare Director and/or the Assistant Child Welfare Director shall have the following specific authority and duties:

(1) To file petitions and represent the Tribe in all tribal proceedings concerning the child under this ordinance,

(2) To receive referrals, investigate reports, and ascertain whether a child is probably subject to this ordinance,

(3) To take a child into emergency custody to protect the child's safety or welfare,

(4) To make emergency, foster, group home, and institutional placements on behalf of the Tribe subject to the control of the Children's Court,

(5) To represent the Tribe in proceedings concerning the welfare of any child as defined in Section DMR.1.2.010(h) of this ordinance in any foreign Court or agency proceeding,

(6) To maintain all child welfare records and establish procedures to maintain the custody and confidentiality of such records,

(7) To negotiate agreements for services with local, state, or federal agencies, subject to Tribal Governing Board review and approval,

(8) To establish procedures for compliance with duties as required under this Children's Code,

(9) To share information for statistical or service purposes in conformity with agreements entered into pursuant to Section DMR.1.9.020(b)(7) above

(10) To receive and administer supervision, guardianship and custody of children under this ordinance.

(11) To make such reports as may be required to the Tribal Governing Board or its designee, provided that no such report that becomes a part of the tribal public record shall contain any identifying information concerning the child or the child's parents.

(12) To receive as the Tribe's agent, notifications under Wis. Stats. § 48.981 and to maintain the confidentiality of such records as required by law.

(13) To perform such other lawful acts as are required or permitted under this ordinance.

(14) To exercise the Tribal Governing Board's authority under 25 U.S.C. § 1915 (c) to establish in individual cases a different order of preference than that set forth in 25 U.S.C. § 1915 (a) and (b).

(15) To decide, in consultation with legal counsel, whether or not to intervene in a case, and whether or not to seek transfer of jurisdiction in a case.

(16) In any non-tribal proceeding, where transfer of jurisdiction is denied or not sought, the Child Welfare Director or the Assistant Child Welfare Director shall maintain a record of all information gathered, actions taken, and documents received.

(c) The Child Welfare Director and the Assistant Child Welfare Director shall have the authority to delegate the authority provided for in this section to such assistants as may be hired by the tribe to work under the Child Welfare Director and the Assistant Child Welfare Director's direction.

(d) The Child Welfare Director and the Assistant Child Welfare Director shall maintain records in a secure place. For purposes of monitoring and evaluation of contract compliance, no record may be extracted, copied, or summarized in a way that discloses information concerning the identity of a child or family.

(e) Immunity for Acts and Omissions. No liability shall attach to the Child Welfare Director and the Assistant Child Welfare Director for statements, acts, or omissions while in the course of activities defined under this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.9.020 was formerly codified as VII LCOTCL §1.902

**Subchapter DMR.1.10
AODA Minor in Need of Care Proceedings**



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DMR.1.10.010 Purpose

When the first European people came and met with the Ojibwe people, they brought alcohol. At first, Indian people thought alcohol was something good because it provided a short cut to dreams and visions. However, the elders realized that these were not the right types of dreams and visions; they were nightmares. The elders tried to convince people to stay away from alcohol but did not succeed. Alcohol took such a strong hold on our people that our people got out of balance with its excessive use. The negative aspect of alcohol took control of our people and make them sick. "Firewater," as alcohol is referred to, has a spiritual meaning. When a person talks with alcohol on their breath, there are flames when they talk; when a person prays with alcohol on their breath, these flames burn their prayers.

Therefore, we as a community believe we must come together to fight alcohol and drug addiction. Through the services provided by the Lac Courte Oreille Health Center and reliance on our tradition and customs, we will seek to rebuild families and communities that have been torn apart by addiction.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.010 was formerly codified as VII LCOTCL §1.1001

DMR.1.10.020 Definitions

For purposes of this subchapter, "Child" or "minor" shall have the meaning as defined in Section DMR.1.2.010(h) of this ordinance.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.10.020 was formerly codified as VII LCOTCL §1.1002

DMR.1.10.030 Jurisdiction

The Children's Court shall have jurisdiction over a Child upon a petition filed by the Behavioral Health Department at the LCO clinic alleging that the child is a child in need of care because of the existence of any of the following conditions:

(a) The child is suffering from alcohol or other drug abuse, for which the parent or the child, if over the age of twelve, is unwilling or unable to provide appropriate treatment.

(b) The child's parent, court-appointed guardian, or custodian signs a statement alleging that he or she is unable to provide necessary supervision and care for the child's AODA needs after consultation with the Adolescent AODA Program.

(c) The child has been Court ordered through a delinquency proceeding or through a deferred prosecution agreement to receive AODA counseling or treatment.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.10.030 was formerly codified as VII LCOTCL §1.1003

DMR.1.10.040 Accelerated Proceedings

Notwithstanding any other provision of this ordinance, the Children's Court may, upon proper notice of waiver of notice, accelerate and combine any of the hearings provided for in this subchapter. The Court may require the accelerated preparation of any court reports or waive the reports, except that any report required as a prerequisite to an out-of-home placement may not be waived.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.10.040 was formerly codified as VII LCOTCL §1.1004

DMR.1.10.050 Petition and Notice of Hearing

(a) Any petition under this subchapter shall be filed with the Children's Court, shall be made under oath, and shall include the following information if known: child's name, date of birth, parents' names, child's parents' last known addresses, and the names and addresses

of all other affected persons. Any petition filed under this subchapter shall be signed under oath by the Director of the Behavioral Health Department or his or her designee.

(b) Any petition filed under this section shall cite the specific subsection of Section DMR.1.5.010 upon which the petitioner alleges jurisdiction, and shall allege the specific facts upon which the petitioner asserts jurisdiction exists. No petition shall be sufficient if it merely reiterates the language of the subsection invoked.

(c) Upon filing of a petition, the Clerk of Court shall prepare a notice which shall include notice of the time, date, and place of the initial hearing, and shall instruct any affected person that his or her rights and responsibilities may be affected by the Children's Court in the course of the proceedings. A copy of the petition and notice shall be served on all affected persons not later than twenty-four (24) hours in advance of the hearing. Upon request of the petitioner or order of a judge or magistrate, the Clerk of Court shall prepare a summons directing any parent with legal custody of a child to appear in Court and to produce the subject minor in Court.

(d) Petitions shall be served personally or by first class mail. In the case of a non-marital child, the petition shall be served on any man whose paternity has been adjudicated, or who has filed a declaration of paternal interest, or who is alleged in any paternity action to be the father, except if the child was conceived as a result of sexual assault. In the event an affected person who was not personally served does not appear at the initial hearing the Court may order a continuance and may order the person served personally or by certified mail, return receipt requested. The Children's Court may proceed in the absence of an affected person if it appears that actual service cannot practicably be made. If an individual claiming paternity appears, the Court may make an interim disposition pending a paternity determination based upon reasonable evidence where there are no competing interests or may make any other orders fashioned to serve the best interest of the child.

(e) No petition filed by the Behavioral Health Director or his or her designee shall be deemed insufficient on account of hearsay, provided that there is a sufficient indication in the petition of the declarant's reliability.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.050 was formerly codified as VII LCOTCL §1.1005

DMR.1.10.060 Initial Hearing

(a) Upon filing of a petition, the Children's Court shall schedule an initial hearing to be held within thirty (30) days of the date the petition was filed. All affected persons appearing at the initial hearing shall be served notice of subsequent hearings, either orally in Court on the record, by first class mail or by personal service. The Court may order additional persons to be served.

(b) Any affected person has the right to be heard and to be represented at a hearing by counsel at his or her own expense. The Children's Court may, on its own motion or that of any party, appoint a guardian ad litem for any minor parent, guardian, or custodian of a child subject of a petition.

(c) At the initial hearing, the child and the parent, guardian or custodian shall be informed of their rights as follows:

- (1) The right to remain silent, although the silence may be considered adversely against the party remaining silent.
- (2) The right to confront and cross-examine witnesses.
- (3) The right to an attorney or lay representative at the party's own expense.
- (4) The right to subpoena and present witnesses.
- (5) The right to have the allegations of the petition proven by clear and convincing evidence.
- (6) The right to demand for cause pursuant to Chapter TCT.2, or to request on any other ground, a substitution of judge, which if not made before the close of the initial hearing in the initial matter involving the subject minor, is deemed waived, and any request for substitution that Chapter TCT.2 does not require to be granted shall be decided in the discretion of the judge.

(Res. No. 15-87)

Prior Codifications

- * §DMR.1.10.060 was formerly codified as VII LCOTCL §1.1006

DMR.1.10.070 Plea Hearing

(a) The Children's Court shall set a date for a plea hearing no later than twenty (20) days from the date of the initial hearing.

(b) At the plea hearing, the Children's Court shall obtain the official positions of the interested parties as to whether they contest the allegations of the petition. If any of the interested parties contest the petition, the matter shall be set for an adjudication hearing in accordance with Section DMR.1.10.080(a) of this ordinance.

(c) The time limits imposed under this subchapter may be waived by all parties and approved by the judge. The plea, adjudicatory, and dispositional hearings may be combined upon approval of the judge and all interested parties.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.070 was formerly codified as VII LCOTCL §1.1007

DMR.1.10.080 Adjudicatory Hearing

(a) If the petition is contested, the Children's Court shall set a date for an adjudicatory hearing no later than forty-five (45) days from the date of the initial hearing.

(b) At the adjudicatory hearing, the Children's Court shall determine whether the subject child is within the jurisdiction of the Court pursuant to the allegations of the petition as shown by clear and convincing evidence.

(c) The Children's Court may order its jurisdiction over the child to extend for any period of time through one year from the date of a finding of jurisdiction.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.080 was formerly codified as VII LCOTCL §1.1008

DMR.1.10.090 Dispositional Hearing

(a) If no party contests the allegations of the petition or upon entry of an adjudication order, the Children's Court shall set a date for a dispositional hearing no later than thirty (30) days from the date of the initial hearing or the adjudication order.

(b) The Children's Court shall determine the disposition appropriate for the child at the Dispositional Hearing. The Behavioral Health Director or his or her designee and the petitioning party shall submit reports to the Court summarizing the child's personal history, the circumstances leading to the petition, the resources available and suitable to the child and family, the disposition recommended, and the rationale for the disposition. The report shall specify how the disposition is related to the circumstances leading to the petition and the role each affected person is expected to play in the removal of such circumstances in the future. Any other party may submit such a report. If a party requests an out-of-home placement for the child, the report shall enumerate the attempts made to prevent an out-of-home placement, and a statement describing the efforts that will be made to make it possible for the child to return home.

(c) All such reports shall be filed with the Children's Court no later than four (4) days prior to the dispositional hearing, unless all parties waive such time limit. The Clerk of Court shall provide copies to the child's guardian ad litem (if any) and counsel for any party, or

directly to any party not represented by counsel, together with a notice requiring the recipient to bring the copy of the report to the dispositional hearing, and prohibiting the recipient from copying or allowing any copies of the report to be made. No additional copies shall be made.

(d) In considering an appropriate disposition, the Children's Court may consider any or all of the following factors:

(1) Special physical, intellectual, or emotional needs of the child;

(2) Social, cultural, or religious tradition of the child, the child's family, or the Tribe;

(3) Availability of resources within the child's extended family;

(4) The child's preference, if the child is over 12 years of age, and the recommendation of any guardian ad litem;

(5) The recommendation of the Behavioral Health Director or any person with an interest in the child;

(6) Recommendations of professionals experienced in services to children;

(7) Other factors calculated to meet the needs of the individual child and purposes of this chapter.

(e) The Children's Court may order disposition in any or all of the following ways:

(1) Participation of the child in a specified counseling, treatment, or educational program, which may include the use of traditional or culturally appropriate services or activities.

(2) Participation of the parent or custodian in a specified counseling, treatment, or educational program, which may include the use of traditional or culturally appropriate services or activities.

(3) Community service appropriate to the needs or abilities of the child.

(4) Out-patient alcohol, drug, or mental health treatment for the parent or child for specified purposes for a specified period of time.

(5) Inpatient AODA treatment for the child for specified purposes for a specified period of time.

(6) Any other disposition calculated to provide for physical, mental, emotional, or developmental needs of the child.

(7) Supervision of the child by the Behavioral Health Department.

(f) A dispositional order may be in effect for no longer than one (1) year.

(g) Any party to a proceeding under this chapter may seek and the Children's Court on its own motion may direct the Behavioral Health Director to seek enforcement of any Court order in any other appropriate Court.

(h) The Children's Court on its own motion may waive, and any party to a proceeding under this chapter may, by motion and for good cause shown, seek a waiver of, continuing jurisdiction over a child and refer a case to any other Court having jurisdiction in such a case.

(i) In any out-of-home placement of a child, the Court shall require testimony, or upon request of the petitioning party, accept a report describing the services available in lieu of testimony, and make the following findings:

(1) Reasonable and active efforts designed to prevent the necessity of out-of-home placement are appropriate and available and have been offered;

(2) The out of home placement is the least restrictive to meet the child's needs;

(3) Continued placement in the home would be contrary to the welfare of the child to remain; and

(4) The Behavioral Health Department will have placement and care responsibility of the child in question.

(j) Whenever the Children's Court orders a child to be placed outside the home, the Children's Court may make the referral described under Section DMR.1.3.120(b) of this ordinance.

(k) Whenever the Children's Court determines the child or the child's family needs Court ordered services beyond those stated in this subchapter, the Children's Court may make a referral to the Indian Child Welfare Department to initiate a Minor in Need of Care Petition under Subchapter DMR.1.5 of this ordinance.

(l) Whenever the Children's Court orders a child placed outside the home, legal custody of the child shall be retained by the parent or parents with legal custody unless the Court specifically orders otherwise, subject to the conditions and limitations imposed by the terms of the dispositional order.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.090 was formerly codified as VII LCOTCL §1.1009

DMR.1.10.100 Reviews, Extensions, and Modifications

(a) Review Hearings. A dispositional order shall be reviewed at the Children's Court's discretion, but at least every six months.

(1) The Legal Department shall motion the Court requesting a Dispositional Order Review Hearing with the Children's Court. The Legal Department shall serve copies of the motion to all affected persons who were parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, except that the Children's Court may order additional parties served.

(2) Upon receiving the motion, the Children's Court shall set a Dispositional Order Review Hearing. The clerk shall serve notice of hearing date to all affected persons who parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, and any additional parties ordered by the Children's Court no later than seven (7) working days before the hearing if done by personal service and ten (10) working days if done by first class mail. The hearing so noticed will be on the merits of the motion unless the Children's Court otherwise provides.

(3) To assist the Children's Court, parties and guardian ad litem, the petitioning party must prepare, file and serve a court report, similar to those called for in Section DMR.1.10.090(a) of this ordinance, and under the same conditions as set forth in Section DMR.1.10.090(a) of this ordinance.

(b) Extension Hearings. At the close of the one year Dispositional Order, the Behavioral Health Director may request an extension of the Dispositional Order for a one year period.

(1) At any time in the last sixty (60) days of the period in which a dispositional order issued by the Children's Court or issued by another Court and subsequently transferred to the Court is effective, the Behavioral Health Director or his or her designee may motion the Court requesting a Dispositional Order Extension Hearing. Such motion shall be filed with the Court. The Legal Department shall serve copies of the motion to extend the dispositional order on all affected persons who were parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, except that the court may order additional parties served.

(2) Upon receiving the request to extend the dispositional order, the Children's Court shall set a Dispositional Extension Order hearing. The clerk shall service notice of the hearing date to all affected persons who parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, and any additional parties ordered by the Court no later than seven (7) working days before the hearing if done by personal service and ten (10) working days if done by first class mail. The hearing so noticed will be on the merits of the motion unless the Court otherwise provides.

(3) To assist the Children's Court, parties and guardian ad litem, the petitioning party must prepare, file and serve a court report, similar to those called for in Section DMR.1.10.090(a) of this ordinance, and under the same conditions as set forth in Section DMR.1.5.070(a) of this ordinance, along with the petition and notice.

(4) In the event a motion for extension is filed within the time period specified in Section DMR.1.10.100(b)(1) above, the Children's Court may make such temporary extension orders as are necessary to preserve its jurisdiction and to protect the interests of the child pending a full hearing on the extension motion.

(5) The scope of inquiry at the hearing on an extension is whether the conditions that warranted the adjudication continue or whether new circumstances provide jurisdiction pursuant to Section DMR.1.10.040 of this ordinance. If an extension is sought on the ground of new circumstances, the circumstances justifying extended jurisdiction shall be alleged in the petition.

(6) A motion to extend a dispositional order may include a motion to modify the order.

(c) Modification Hearings. Upon motion by any person with an interest in the child who was a party to the original proceedings or the Behavioral Health Director, the Children's Court may, for good cause shown, modify a dispositional order any time during the effective period of the order sought to be modified.

(1) The Legal Department shall motion the Court requesting a Dispositional Order Modification Hearing with the Children's Court. The Legal Department shall serve copies of the motion to all affected persons who were parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, except that the Court may order additional parties served. Such motion shall be filed with the Children's Court.

(2) Upon receiving the motion, the Children's Court shall set a Dispositional Order Modification Hearing. The clerk shall serve notice of hearing date to all affected persons who parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, and any additional parties ordered by the Children's Court no later than seven (7) working days before the hearing if done by personal service and ten (10) working days if done by first class mail. The hearing so noticed will be on the merits of the motion unless the Children's Court otherwise provides.

(3) To assist the Children's Court, parties and guardian ad litem, the petitioning party must prepare, file and serve a court report, similar to those called for in Section

DMR.1.10.090(a) of this ordinance, and under the same conditions as set forth in Section DMR.1.5.070(b) of this ordinance.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.100 was formerly codified as VII LCOTCL §1.1010

DMR.1.10.110 Change of Placement Hearings

(a) The Behavioral Health Director or his or her designee may request a change in placement of the child, whether or not the change requested is authorized in the dispositional order, as provided in Section DMR.1.10.080(b) of this ordinance.

(1) If the proposed change in placement would change the placement of a child placed in the home to a placement outside the home, the Behavioral Health Director shall motion the Children's Court requesting a Change of Placement Hearing. The request shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the Court. The request shall also contain specific information showing that continued placement of the child in his or her home would be contrary to the welfare of the child, that the Behavioral Health Department has made reasonable and active efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns. The Legal Department shall serve copies of the motion to all affected persons who were parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, except that the Court may order additional parties served. Such motion shall be filed with the Court.

(2) Upon receiving the motion, the Children's Court shall set a Change of Placement Hearing. The clerk shall serve notice of hearing date to all affected persons who parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, and any additional parties ordered by the Court no later than seven (7) working days before the hearing if done by personal service and ten (10) working days if done by first class mail. The hearing so noticed will be on the merits of the motion unless the Children's Court otherwise provides.

(3) If the proposed change of placement would change the placement of a child placed out of the home to inside the home, the Behavioral Health Director shall provide the Children's Court with a Notice of Change of Placement. The Notice shall contain the name and address of the placement and the date on which the placement occurred. The Legal Department shall serve copies of the Notice to all affected persons who were

parties to the original proceedings, the Behavioral Health Director, and the guardian ad litem, and any additional parties the Children's Court ordered served.

(Res. No. 15-87)

Prior Codifications

* §DMR.1.10.110 was formerly codified as VII LCOTCL §1.1011

**Subchapter DMR.1.11
Guardian Ad Litem Code**



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DMR.1.11.010 Qualifications Guardian Ad Litem

(a) Once a guardian ad litem is listed on the Lac Courte Oreille's panel of approved guardians ad litem, the guardian ad litem must maintain eligibility by completing the mandatory guardian ad litem continuing legal education (CLE) approved courses as required by the Wisconsin Supreme Court Rules 35.03(1) and 36.03(1) which mandate a qualified GAL to attend at least six hours of GAL education approved courses each year.

(b) A guardian ad litem may remain on the approved Lac Courte Oreilles panel of approved guardians ad litem if the guardian ad litem has met the Wisconsin Supreme Court Rule 36 which allows for a guardian ad litem to obtain a lifetime qualification as a guardian ad litem once the guardian ad litem as obtained thirty credit hours of GAL education approved courses in his or her lifetime.

(Res. No. 2023-102)

DMR.1.11.020 Guardian Ad Litem Duties

(a) A guardian ad litem shall be an attorney or trained advocate. Before being appointed as guardian ad litem, advocates shall demonstrate an understanding of the role of the guardian ad litem. Such understanding may be demonstrated by passing an examination administered by an interview conducted by the Chief Judge, Family Court, Judge or such other means determined by the Lac Courte Oreilles Tribal Court.

(b) *Represent Best Interests.* A guardian ad litem shall represent the best interest of the person for whom he or she is appointed. Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents. The guardian ad litem shall not advocate on behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney or an advocate.

(c) *Maintain Independence.* A guardian ad litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.

(d) *Professional Conduct.* A guardian ad litem shall act in a manner consistent with the Rules of Professional Conduct of both the American Bar Association, State of Wisconsin, and the Lac Courte Oreilles Tribal Code of Law.

(1) The guardian ad litem may be subject to additional rules or requirements at the discretion of the Chief Judge in addition to those listed in TCT.2.8.030 pursuant to TCT.2.8.060.

(e) *Avoid Conflicts of Interest.* No person who is an interested party in a proceeding, appears as an attorney or advocate in a proceeding on behalf of any party, or is a relative or representative of an interested party may be appointed guardian ad litem in that proceeding. A guardian ad litem shall:

(1) Avoid any actual or apparent conflict of interest or impropriety in the performance of guardian ad litem responsibilities.

(2) Avoid self-dealing or association from which a guardian ad litem might directly or indirectly benefit, other than for compensation as guardian ad litem.

(3) Take action immediately to resolve any potential conflict or impropriety and advise the Court and the parties of action taken, resign from the matter, or seek Court direction as may be necessary to resolve the conflict or impropriety.

(4) Not accept or maintain appointment if the performance of the duties of guardian ad litem may be materially limited by the guardian's ad litem responsibilities to another client or a third person, or by the guardian's ad litem own interests.

(f) *Treat parties with respect.* A guardian ad litem is an officer of the Court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith.

(g) *Become informed about case.* A guardian ad litem shall make active efforts to become informed about the facts of the case and to contact all parties. A guardian ad litem shall examine material information and sources of information, taking into account the positions of the parties

(h) *Make requests for evaluations to Court.* A guardian ad litem shall not require any evaluations or tests of any person except as required by Tribal Law or Court order issued following notice and opportunity to be heard.

(i) *Limit duties to those ordered by Court.* A guardian ad litem shall comply with the Court's instructions as set out in the order appointing a guardian ad litem, and shall not provide or require services beyond the scope of the Court's instruction unless by motion and on adequate notice to the parties, a guardian ad litem obtains additional instruction, clarification or expansion of the scope of such appointment.

(1) A guardian ad litem shall not be called as a witness in any proceeding or hearing in which he/she is a guardian ad litem, except where, with the Court's permission, clarification is requested regarding the guardian ad litem's report. In such case, testimony shall be restricted to that which is needed to clarify such report.

(j) *Inform individuals about role in case.* A guardian ad litem shall identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and inform contacted individuals about the role of a guardian ad litem in the case at the earliest practicable time. A guardian ad litem shall advise information sources that the documents and information obtained may become part of Court proceedings.

(k) *Appear at hearings.* The guardian ad litem shall be given notice of all hearings and proceedings. A guardian ad litem shall appear at any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed.

(l) *Ex parte communication.* A guardian ad litem shall not have ex parte communications concerning the case with the Judge(s) involved in the matter except as permitted by Court Rule or by Tribal Law.

(m) *Maintain privacy of parties.* As an officer of the Court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the Court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of identifiers or addresses where there are allegations of domestic violence or risk to a party's or child's safety. The guardian ad litem may recommend that the Court seal the report or a portion of the report of the guardian ad litem to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed. The Court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure or discovery that addresses the need to challenge the truth of the information received from the confidential source.

(n) *Perform duties in timely manner.* A guardian ad litem shall perform responsibilities in a prompt and timely manner.

(o) *Maintain documentation.* A guardian ad litem shall maintain documentation to substantiate recommendations and conclusions and shall keep records of actions taken by the guardian ad litem.

(1) A guardian ad litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the Court and **provide a copy to each party or other entity responsible for payment.**

(2) The Court may make provisions for fees and expenses pursuant to Tribal Law or Court Rule in the Order Appointing Guardian ad Litem or any subsequent order.

(p) At final paternity hearings, dispositional hearings and at other times when appropriate, the guardian ad litem shall provide a written report to the Court with his or her recommendations. The recommendations shall be based upon a full and independent investigation of the facts. The report shall include:

(1) The sources of information of the guardian ad litem;

(2) When home visits were done by the guardian ad litem and the results of the visits;

(3) Who the guardian ad litem interviewed including parents, relatives and professionals;

(4) Whether the guardian ad litem had contact with the child or children;

(5) Relevant provisions of the law; and

(6) The guardian ad litem's recommendation on the contested issues.

(q) The appointment of a guardian ad litem terminates upon the entry of the Court's final order or upon the termination of any appeal in which the guardian ad litem participates.

(r) As an officer of the Court, a guardian ad litem has only such authority conferred by the order of appointment. A guardian ad litem shall have the following authority:

(1) *Access to party.* Unless circumstances warrant otherwise, a guardian ad litem shall have access to the persons for whom a guardian ad litem is appointed and to all information relevant to the issues for which a guardian ad litem was appointed.

(A) The access of a guardian ad litem to the child and all relevant information shall not be unduly restricted by any person or agency

(B) When the guardian ad litem seeks contact with a party who is represented by an attorney or advocate, the guardian ad litem shall notify the attorney or advocate in advance of such contact. The guardian ad litem's contact with the represented party shall be as permitted by the party's attorney or advocate, unless otherwise ordered by the Court.

(2) *Timely receipt of case documents.* Until discharged by Court order a guardian ad litem shall be timely furnished copies of all relevant pleadings, documents, and reports by the party which served or submitted them.

(3) *Timely notification.* A guardian ad litem shall be timely notified of all Court hearings, administrative reviews, investigations, dispositions, and other proceedings concerning the case by the person or agency scheduling the proceeding.

(4) *Notice of proposed agreements.* A guardian ad litem shall be given notice of, and an opportunity to indicate his or her agreement or objection to any proposed agreed order of the parties governing issues substantially related to the duties of a guardian ad litem.

(5) *Participate in all proceedings.* A guardian ad litem shall participate in Court hearings through submission of written and supplemental oral reports and as otherwise authorized by Tribal law or Court Rule.

(6) *Access to records.* Except as limited by law or unless good cause is shown to the Court, upon receiving a copy of the order appointing a guardian ad litem, any person or agency shall permit a guardian ad litem to inspect and copy any and all records and interview personnel relating to the proceeding for which a guardian ad litem is appointed. Examples of persons and agencies to whom this provision applies include but are not limited to any hospital, school, child care provider, organization, department of social and health services, doctor, health care provider, mental health provider, chemical health program, psychologist, psychiatrist, or law enforcement agency.

(7) *Access to Court files.* Within the scope of appointment, a guardian ad litem shall have access to all relevant Judiciary files. Access to sealed or confidential files shall be by separate order. A guardian ad litem's report shall inform the Court and parties if the report contains information from sealed or confidential files.

(A) The Clerk of Court shall provide certified copies of the order of appointment to a guardian ad litem upon request and without charge.

(s) *Rights and powers.* In every case in which a guardian ad litem is appointed, a guardian ad litem shall have the rights and powers set forth below. These rights and powers are subject to all applicable Tribal laws and Court Rules.

(1) *File documents and respond to discovery.* A guardian ad litem shall have the right to file pleadings, motions, notices memoranda, briefs, and other documents, and may, subject to the Trial Court's discretion, engage in and respond to discovery.

(2) *Note motions and request hearings.* A guardian ad litem shall have the right to make motions and request hearings before the Court as appropriate in the best interests of the person(s) for whom a guardian ad litem was appointed.

(3) *Introduce exhibits, examine witnesses, and appeal.* A guardian ad litem shall have the right, subject to the Court's discretion, to introduce exhibits, subpoena witnesses, and conduct direct and cross examination of witnesses.

(4) *Oral argument and submission of reports.* A guardian ad litem shall have the right to fully participate in the proceedings through submission of written reports, and, may with the consent of the Court present oral argument.

(t) *Additional rights and powers in other cases.* For good cause shown, a guardian ad litem may petition the court for additional authority.

(Res. No. 2023-102)

DMR.1.11.030 Guardian Ad Litem Complaint

(u) A party to an active court case in which a guardian ad litem is appointed may submit a formal complaint about the performance of a guardian ad litem in a Court proceeding.

(v) The formal complaint must be in writing or by email.

(w) The formal complaint must be submitted during the case, and no later than thirty (3) days from the date of issuance of the final order or discharge of the guardian ad litem on the proceeding in question.

(x) The formal complaint must specify the alleged malfeasance of duty, including but not limited to the specific rule, law or ethical responsibility that the guardian ad litem violated.

(y) The formal complaint must specify whether or not the alleged malfeasance of duty was brought to the attention of the Court.

(Res. No. 2023-102)

Chapter DMR.2
Domestic Relations Court Code of the Lac Courte Oreilles Band of Lake Superior Chippewa
Indians



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**Subchapter DMR.2.1
Jurisdiction**



DMR.2.1.010 Domestic Relations Defined DMR.2.1-1
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DMR.2.1.010 Domestic Relations Defined

Domestic relations matters include:

- (a) Marriage
- (b) Divorce.
- (c) Legal separation.
- (d) Custody and placement.
- (e) Paternity.
- (f) Grandparent Visitation.
- (g) Child support.
- (h) Annulment.
- (i) Name change
- (j) Adoption.
- (k) Guardianship of children and adults and protective placement.
- (l) Domestic abuse.

Prior Codifications

* §DMR.2.1.010 was formerly codified as LCOTCC §3.1

DMR.2.1.020 Jurisdiction over Domestic Relations Matters

The Tribal Court shall have jurisdiction over domestic relations matters where any party to the action, or any child who is the subject of an action, is a member of the Tribe or where

any party, or any subject child, resides on the Reservation, subject to any additional requirements for each type of action set forth in this chapter.

Prior Codifications

- * §DMR.2.1.020 was formerly codified as LCOTCC §3.2

DMR.2.1.030 Procedure

Where specific rules of procedure are not prescribed in this chapter, the rules set forth in the Tribal Court Code shall apply.

Prior Codifications

- * §DMR.2.1.030 was formerly codified as LCOTCC §3.3

**Subchapter DMR.2.2
Marriages**



DMR.2.2.010 Valid Marriages DMR.2.2-1
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DMR.2.2.010 Valid Marriages

(a) Marriages consummated according to State law or tribal custom or tradition before the effective date of this Code are declared valid and binding by the Lac Courte Oreilles Band, but hereafter shall conform to the provisions of this Code.

(b) A valid marriage hereunder shall be constituted by:

(1) The issuance of a marriage license by the Lac Courte Oreilles Tribal Court or the State of Wisconsin and its completion by both parties to the marriage and its recording with the Clerk of Court, or

(2) The solemnization of the marriage by tribal tradition and custom, by a Judge within the territorial jurisdiction of the Lac Courte Oreilles Reservation, or by a spiritual leader or by a recognized member of the clergy or by a public official authorized to do so by the laws of any State is optional.

Prior Codifications

* §DMR.2.2.010 was formerly codified as LCOTCC §3.4

DMR.2.2.020 Marriage License

A marriage license shall be issued to an unmarried male and an unmarried female, upon their written application, by the Clerk of Court in the absence of any showing that the proposed marriage would be invalid under any provision of this Code or tribal custom and tradition. Both parties to the marriage must be eighteen (18) years or older. If either party to the marriage is under the age of eighteen (18), then that party must have written consent of the parent or legal guardian.

Prior Codifications

* §DMR.2.2.020 was formerly codified as LCOTCC §3.5

DMR.2.2.030 Solemnization

(a) In the event a judge, member of the clergy, tribal official or anyone authorized to do so solemnizes a marriage, the parties to the marriage shall file with the Clerk of Court a certification thereof within three (3) days of the solemnization. The validity of any marriage under this Code is not affected by the absence of a ceremony.

(b) When the parties to a marriage elect not to have a person as described above solemnize the marriage, they shall complete the marriage license and return it to the Clerk of Court and their marriage shall be effective as of the date the Clerk of Court receives the properly executed license.

Prior Codifications

* §DMR.2.2.030 was formerly codified as LCOTCC §3.6

DMR.2.2.040 Invalid or Prohibited Marriages

Marriages are prohibited or invalid under this Code:

(a) Where either party is lawfully married to another living spouse.

(b) Where either party has been divorced and the divorce is not yet final, or the waiting period for remarriage has not yet elapsed, under the law of the jurisdiction where the divorce was granted.

(c) Between ancestors and descendants of every degree, between a stepfather and stepdaughter or between a stepmother and stepson, between brother and sister, aunt and nephew, uncle and niece, and between first cousins, whether the relationship is of the half or whole blood and legitimate or illegitimate.

(d) Where the marriage is prohibited by custom and tradition of the Tribe.

Prior Codifications

* §DMR.2.2.040 was formerly codified as LCOTCC §3.7

DMR.2.2.050 Grounds for Annulment or Voidable Marriage

(a) A marriage may be voided or annulled by the Tribal Court for any one of the following reasons upon the application of one of the parties. No marriage may be annulled or held void except pursuant to judicial proceedings. No marriage may be annulled after the death of either party to the marriage. A court may annul a marriage entered into under the following circumstances:

(1) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of age, because of mental capacity or infirmity or because of influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage.

Suit may be brought by either party, or by the legal representative of a party lacking the capacity to consent, no later than one year after the petitioner obtained knowledge of the described condition.

(2) A party lacks the physical capacity to consummate the marriage by sexual intercourse, and at the time marriage was solemnized the other party did not know of the incapacity. Suit may be brought by either party no later than one year after the petitioner obtained knowledge of the incapacity.

(3) A party was 16 or 17 years of age and did not have the consent of his or her parent or guardian or judicial approval, or a party was under 16 years of age. Suit may be brought by the under-aged party or a parent or guardian at any time prior to the party's attaining the age of 18 years, but a parent or guardian must bring suit within one year of obtaining knowledge of the marriage.

(4) The marriage is prohibited by the laws of the Tribe. Suit may be brought by either party within 10 years of the marriage, except that the 10 year limitation shall not apply where the marriage is prohibited because either party has another spouse living at the time of the marriage and the impediment has not been removed as follows:

(b) If a person during the lifetime of a husband or wife with whom the marriage is in force, enters into a subsequent marriage contract and the parties thereto live together thereafter as husband and wife, and such subsequent marriage contract was entered into by one of the parties in good faith, in the full belief that the former husband or wife was dead, or that the former marriage has been annulled, or dissolved by a divorce, or without knowledge of such former marriage, if they continue to live together as husband and wife in good faith on the part of one of them, they shall be held to have been legally married from and after the removal of such impediment and the issue of such subsequent marriage shall be considered as the marital issue of both parents.

Prior Codifications

* §DMR.2.2.050 was formerly codified as LCOTCC §3.8

Subchapter DMR.2.3 Divorce and Legal Separation



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DMR.2.3.010 Effect of Divorce, Grounds

(a) Divorce is the dissolution of the bonds of matrimony between two married parties. Incident to the granting of a divorce, the Court may award property, assign responsibility for debts, set support, set maintenance, allocate child custody and child placement, restore either or both parties to a former surname, prohibit or restrict contact between the parties, and enter such other orders pertaining to the relationship of the parties as circumstances require. The Court may enter temporary orders pending a final hearing.

(b) The only ground for the dissolution of a marriage is that the parties are incompatible. The only defense to a petition for divorce is that the parties are not incompatible. Incompatibility is established when:

(1) The parties have voluntarily lived apart for 12 months or more and one party testifies that the parties are incompatible; or

(2) Both parties testify that they are incompatible; or

(3) Only one party testifies that the parties are incompatible, the parties have not voluntarily lived apart for 12 months or more, and the Court finds, based on all the circumstances, that there is no reasonable prospect the parties will reconcile.

Prior Codifications

* DMR.2.3.010 was formerly codified as LCOTCC §3.9

DMR.2.3.020 Legal Separation

(a) Legal separation is the status where the respective rights and responsibilities of the parties to a marriage have been set forth in a judgment of separation entered by the Court. The Court may include in a judgment of separation or in any temporary separation order the same provisions as it may include in a proceeding for divorce, except that it may not dissolve the marriage.

(b) The only ground for legal separation is that the marriage is broken.

(c) Married parties who have separated are under no obligation to obtain a legal separation but may choose to do so if they cannot establish their respective rights and responsibilities without court involvement, or if either requires for any reason a court order that may be issued in a separation proceeding.

(d) If one party petitions the Court for legal separation, and the other party objects to the petition, the Court shall grant the petition if it finds that the marriage is broken.

(e) If one party petitions the Court for legal separation, and the other party petitions the court for divorce, the Court shall determine which petition to grant.

(f) At any time during the pendency of an action for legal separation, the parties may jointly petition the Court to convert the action to one for divorce.

(g) At any time after entry of a judgment of separation, the parties may jointly petition the court to convert the judgment to one of divorce.

(h) At any time after entry of a judgment of separation, the parties may jointly petition the court to vacate the judgment.

(i) Except as specifically provided in this chapter, the procedures applicable to divorce are applicable to legal separation.

Prior Codifications

* §DMR.2.3.020 was formerly codified as LCOTCC §3.10

DMR.2.3.030 Residency Requirement for Divorce or Legal Separation

A party may file a petition for divorce or legal separation where either party to the marriage has been a resident of the Reservation for at least 90 days.

Prior Codifications

* §DMR.2.3.030 was formerly codified as LCOTCC §3.11

DMR.2.3.040 Petition for Divorce or Legal Separation

(a) An action for divorce or legal separation may be commenced either by one party through a sole petition, or by both parties through a joint petition.

(b) The petition shall include the following information:

(1) The name, address, age, occupation, employer, and social security number of each party, the membership status of each party in the Tribe, and the length of each party's residence on the Reservation.

(2) The date and place of the marriage.

(3) The names and dates of birth of each living minor child of the parties, natural or adopted, and whether the wife is pregnant.

(4) Whether any other action for divorce or legal separation has ever been filed or is now pending in any court, and if so, the name and location of the court, and the current status of the proceeding.

(5) Whether the parties have entered into any agreements for custody or placement of children, division of property or allocation of debts, support, or maintenance.

(6) Whether the parties are incompatible, in a divorce petition, or whether the marriage is broken, in a separation petition.

(7) A statement of the relief requested.

(8) Where there are minor living children of the parties, the following information for each child must be stated under oath, either in the petition, or in an attached affidavit:

(A) The child's present address, the places the child has lived in the last five years, the names and present addresses of the persons with whom the child has lived during that period.

(B) Whether the party has participated as a party, witness, or in any other capacity in any other litigation in any court concerning the custody or placement of the child.

(C) Whether the party has any information about any other pending custody or placement case involving the child in any other court.

(D) Whether the party knows of any other person not a party to the action who has physical placement of the child and has or claims rights of placement or custody of the child.

(9) Where the petitioner does not have information as to any item required by this section, the petitioner shall so state.

(c) The petition shall be dated and signed by the petitioner or petitioners.

Prior Codifications

* §DMR.2.3.040 was formerly codified as LCOTCC §3.12

DMR.2.3.050 Initial Order

Upon the filing of a petition, the Clerk of Court shall issue an initial order of the Judge or Magistrate, which may be pre-signed by the Judge or Magistrate, providing the following:

(a) Setting the date for an initial status conference before the Court, to occur no sooner than 30 days and no later than 75 days after the filing of the petition.

(b) Prohibiting both parties from engaging in any of the following acts, effective as to each party upon the receipt by the party of the initial order:

(1) Harassing, intimidating, physically abusing or imposing any restraint on the personal liberty of the other party or a minor child of either of the parties.

(2) Encumbering, concealing, damaging, destroying, transferring or otherwise disposing of property owned by either or both of the parties, without the consent of the other party or an order of the Court, except in the usual course of business, in order to secure necessities or in order to pay reasonable costs and expenses of the action, including attorney fees.

(3) Without the consent of the other party or an order of the Court establishing a residence with a minor child of the parties more than 100 miles from the residence of the other party, removing a minor child of the parties from the child's residence for more than 14 consecutive days, or concealing a minor child of the parties from the other party.

(c) Requiring the parties to complete a financial disclosure statement, on forms supplied by the Court, and to file and provide a copy to the other party no fewer than five days before the initial status conference.

(d) Requiring the parties to participate in any of the following, as the Court may determine by rule:

- (1) Mediation of any disputes.
- (2) Education on the effects of divorce or separation on children.
- (3) Joint drafting of a parenting plan.

Prior Codifications

- * §DMR.2.3.050 was formerly codified as LCOTCC §3.13

DMR.2.3.060 Initial Status Conference

(a) The petitioner who accomplishes filing shall provide a copy of the petition and initial order on the other party within 15 days of filing. In the case of a sole petition, service on the respondent must be made as provided in Section TCT.2.9.020 of the Court Code. The judge or magistrate may extend time for service upon application by the petitioner for good cause.

(b) At the initial status conference the judge shall ascertain if there are any areas of dispute between the parties. The judge may require the parties to do any of the following:

- (1) Clarify their positions orally at the conference or in writing at such time as the judge determines.
- (2) Exchange information.
- (3) Participate in the mediation of any dispute.
- (4) Attend any educational program that may be of benefit to the parties or any children.
- (5) Jointly draft a parenting plan or an agreement on any other issues requiring resolution.
- (6) Exchange proposals for resolution of issues according to a method or timetable set by the judge.
- (7) Enter such temporary orders as are necessary to protect children, the parties, or the marital estate (as defined in Section DMR.2.7.010) or establish a time for hearing on any such proposed temporary orders.
- (8) Enter such other orders as may be included in a scheduling order under Section TCT.2.9.050.

(c) The judge shall set a date for a further status conference or final hearing as the circumstances warrant, or may conduct a final hearing under Section DMR.2.3.110.

Prior Codifications

- * §DMR.2.3.060 was formerly codified as LCOTCC §3.14

DMR.2.3.070 Guardian Ad Litem

At any time during the pendency of a divorce or separation proceeding, if it becomes apparent that issues of placement or custody of a minor child will not be resolved by mutual agreement of the parties, the Court on its own motion or upon that of either party, may appoint a guardian ad litem to represent the best interests of the child.

Prior Codifications

- * §DMR.2.3.070 was formerly codified as LCOTCC §3.15

DMR.2.3.080 Temporary Orders

At any time during the pendency of a divorce or separation proceeding, either party may, on motion and notice to the other party, seek a temporary order.

Prior Codifications

- * §DMR.2.3.080 was formerly codified as LCOTCC §3.16

DMR.2.3.090 Suspension of Proceedings for Reconciliation

At any time during the pendency of a divorce or separation proceeding, the parties may by mutual agreement suspend such proceedings. If they obtain an order of the Court effectuating such suspension then the period of reconciliation approved by the Court may not be used to rebut the allegation that parties are incompatible or that the marriage is broken. The Court may approve a suspension of proceedings for no more than 90 days with a renewal, upon mutual request of the parties, for no more than 90 days.

Prior Codifications

- * §DMR.2.3.090 was formerly codified as LCOTCC §3.17

DMR.2.3.100 Dismissal for Failure to Prosecute

The court on its own motion, or on the motion of either party, may dismiss a divorce or separation proceeding if no action in the case has occurred in one year.

Prior Codifications

- * §DMR.2.3.100 was formerly codified as LCOTCC §3.18

DMR.2.3.110 Final Hearing

(a) No divorce or legal separation may be brought to final hearing before the expiration of 60 days from (1) the filing of a joint petition or (2) the service on the respondent of the petition and initial order in a case initiated by a sole petition. Where the Court finds that the health or safety of either of the parties or of any child requires the final hearing to be held sooner, or that another emergency reason requires the final hearing to be held sooner, the Court may waive the requirement of a waiting period.

(b) The final hearing may be combined with the initial status conference if the parties consent, if the court approves, and if the waiting period has expired.

(c) At the final hearing the Court shall:

(1) Determine if grounds for divorce or separation exist.

(2) Receive and review any agreements of the parties, and shall approve them if they are fair and equitable to the parties, if they are based on full disclosure between the parties of relevant facts, and if they meet the best interests of the children, if any, of the parties. No agreement for placement or custody of a minor child shall be approved unless it specifically sets forth the child support obligations of the parties and the responsibility for providing health insurance to the minor child and for the payment of the minor child's health expenses uncovered by insurance. No agreement for placement or custody of a minor child shall be approved unless it meets the requirements of a parenting plan approved by court rule.

(3) If any issue is contested, either refer the parties to further discussion or mediation and adjourn the hearing, or conduct a trial on the contested issue. In any contested matter, the Court shall apply the standards for custody, placement, child support, maintenance, division of property, assignment of debts, and award of attorney fees and costs as set forth in Subchapter IV - X.

(4) Find facts and make conclusions of law as relevant to the petition.

(5) Grant or deny the petition and render judgment thereon, including in the judgment those matters as called for in the circumstances. The Court shall orally advise the parties and include in the judgment advice of relevant state criminal law provisions related to the withholding of placement and interfering with custody and placement. The Court shall also orally advise the parties and include in the judgment advice of the provisions of Section DMR.2.3.130, related to remarriage after divorce.

Prior Codifications

* §DMR.2.3.110 was formerly codified as LCOTCC §3.19

DMR.2.3.120 Vacating Divorce Judgment

At any time within six (6) months of entry of a judgment of divorce, the parties may by mutual petition, request that the divorce judgment be vacated. Vacating the divorce judgment does not affect any division of property, or payment of debts, support, or maintenance that has already occurred, or, unless specifically requested, any name change included in the divorce judgment, but does terminate any prospective obligations of the parties as set forth in the judgment, including but not limited to future support and maintenance, obligations for unpaid bills, and custody and placement.

Prior Codifications

* §DMR.2.3.120 was formerly codified as LCOTCC §3.20

DMR.2.3.130 Remarriage After Divorce

Any marriage entered into on the Reservation or anywhere else by any party who has been divorced under this chapter shall be void unless entered into no less than six (6) months after entry of the divorce judgment.

Prior Codifications

- * §DMR.2.3.130 was formerly codified as LCOTCC §3.21

Subchapter DMR.2.4 Child Custody and Placement



DMR.2.4.010 Definitions..... DMR.2.4-1
 DMR.2.4.020 When a Parent May Seek a Custody or Placement..... DMR.2.4-1
 DMR.2.4.030 Physical Presence of Child..... DMR.2.4-2
 DMR.2.4.040 Tribal/State Court Protocol..... DMR.2.4-2
 DMR.2.4.050 Action for Custody, Placement, Visitation, and Guardianship..... DMR.2.4-3
 DMR.2.4.060 Custody and Placement Factors..... DMR.2.4-3
 DMR.2.4.070 Modification of Custody and Placement Order DMR.2.4-3

DMR.2.4.010 Definitions

(a) "Legal custody" means the right and responsibility to make major decisions concerning the child, except with respect to specified decisions as set forth by the court or the parties in the final judgment or order.

(b) "Joint legal custody" means the condition under which both parties share legal custody and neither party's legal custody rights are superior, except with respect to specified decisions as set forth by the court or the parties in the final judgment or order.

(c) "Sole legal custody" means the condition under which one party has legal custody.

(d) "Major decisions" includes, but is not limited to, decisions regarding consent to marry, consent to enter military service, consent to obtain a motor vehicle operator's license, authorization for non-emergency health care and choice of school and religion.

(e) "Physical placement" means the condition under which a party has the right to have a child physically placed with that party and has the right and responsibility to make, during that placement, routine daily decisions regarding the child's care, consistent with major decisions made by a person having legal custody. The word "placement" may be used in lieu of "physical placement."

Prior Codifications

* §DMR.2.4.010 was formerly codified as LCOTCC §3.22

DMR.2.4.020 When a Parent May Seek a Custody or Placement

A parent may seek custody or placement if:

(a) The Reservation is the domicile of the child at the time of commencement of the proceeding, or had been the child's domicile within six months before commencement of

the proceeding and the child is absent from the Reservation because of removal or retention by a person claiming custody or for any other reason, and a parent or person acting as parent continues to live on the Reservation; or

(b) It is in the best interest of the child that this Court assume jurisdiction because the child and parents, or the child and at least one contestant, have a significant connection with the Reservation, and there is available on or near the Reservation substantial evidence concerning the child's present or future care, protection, training and personal relationships; or

(c) The child is physically present on the Reservation and has been abandoned or it is necessary in an emergency to protect the child because of mistreatment, abuse, or neglect, or the threat thereof, or dependence, or

(d) No other Court outside this Reservation has jurisdiction under prerequisites substantially in accordance with paragraph (1), (2), or (3), or another jurisdiction has declined to exercise its jurisdiction on the ground that this Court is the more appropriate forum to determine custody of the child, and it is in the child's best interest that this Court assume jurisdiction.

Prior Codifications

- * §DMR.2.4.020 was formerly codified as LCOTCC §3.23

DMR.2.4.030 Physical Presence of Child

(a) Except under subsections (3) and (4), physical presence on the Reservation of the child or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on the Tribal Court to make a child custody determination.

(b) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his/her custody.

Prior Codifications

- * §DMR.2.4.030 was formerly codified as LCOTCC §3.24

DMR.2.4.040 Tribal/State Court Protocol

The Court will not exercise jurisdiction under this chapter where the child is lawfully under the jurisdiction of another court, unless the other court transfers jurisdiction, or unless, where the other court is a Wisconsin circuit court and has adopted the *Wisconsin Tribal/State Court Protocol for the Judicial Allocation of Jurisdiction*, the Tribal Court determines to exercise jurisdiction pursuant to the standards and procedures of the *Protocol*.

Prior Codifications

- * §DMR.2.4.040 was formerly codified as LCOTCC §3.25

DMR.2.4.050 Action for Custody, Placement, Visitation, and Guardianship

A parent may seek custody and placement in a proceeding for divorce, separation, or paternity, or in an independent action for custody and placement. A grandparent or another person may seek visitation rights pursuant to Subchapter DMR.2.16. Any person may seek guardianship pursuant to Subchapter DMR.2.17. A petition for custody or placement will conform to the extent applicable to the petition for divorce or legal separation and the procedure for the resolution of such a petition will conform to the extent applicable to the procedure for divorce or legal separation, except that no waiting period is required prior to a final hearing.

Prior Codifications

* §DMR.2.4.050 was formerly codified as LCOTCC §3.26

DMR.2.4.060 Custody and Placement Factors

(a) In determining any contested issue of custody and placement, the Court shall consider all relevant factors, including:

- (1) The wishes of the child's parent or parents.
- (2) The wishes of the child.
- (3) The interaction and inter-relationship between the child and parent or parents, siblings, and any other person who may significantly affect the child's best interest.
- (4) The child's adjustment to home, school and community.
- (5) The mental and physical health of all individuals involved.

(b) Both parents are entitled to reasonable placement rights unless the Court finds, after a hearing, that placement periods with one or both parents would seriously endanger the child's physical, mental, moral, or emotional health.

Prior Codifications

* §DMR.2.4.060 was formerly codified as LCOTCC §3.27

DMR.2.4.070 Modification of Custody and Placement Order

(a) The Court may modify an order granting or denying custody or placement rights whenever modification would serve the best interest of the child, but no motion to modify a custody or placement order may be made earlier than one year after its date, unless the Court finds the child's present environment may seriously endanger the child's physical, mental, moral, or emotional health. The Court may appoint a guardian ad litem before considering a contested motion for modification.

(b) Fees of attorneys or lay advocate and costs, including guardian ad litem fees, shall be assessed against a party seeking modification if the Court finds that the modification action is pursued in bad faith and/or constitutes harassment.

Prior Codifications

* §DMR.2.4.070 was formerly codified as LCOTCC §3.28

Subchapter DMR.2.5 Maintenance



DMR.2.5.010 Grounds for Maintenance Award.....	DMR.2.5-1
DMR.2.5.020 Maintenance Factors.....	DMR.2.5-1

DMR.2.5.010 Grounds for Maintenance Award

In a proceeding for divorce or legal separation, the Court may grant a maintenance order for either spouse only if it finds:

(a) The spouse seeking maintenance lacks sufficient income to provide for his or her reasonable needs, and is unable to support himself or herself through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home; or

(b) The spouse seeking maintenance has contributed to the financial condition of the other spouse to the other spouse's benefit, and an award of maintenance is necessary to meet the support needs of the spouse seeking maintenance and to fairly recognize the contributions of both spouses to the financial condition of the other spouse.

Prior Codifications

* §DMR.2.5.010 was formerly codified as LCOTCC §3.29

DMR.2.5.020 Maintenance Factors

The maintenance award shall be in such amounts and for such periods of time as the Court deems just, without regard to marital misconduct, and after considering all relevant factors, including:

(a) The financial resources of the party seeking maintenance, and his or her ability to meet his or her needs independently.

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment.

(c) The standard of living established during the marriage.

(d) The duration of the marriage.

(e) The age and the physical and emotional condition of the spouse seeking maintenance.

(f) The ability of the spouse from whom maintenance is sought to meet his or her needs while meeting those of the spouse seeking maintenance.

(g) Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.

(h) The ability of the spouse seeking maintenance to earn a living separate from the other spouse.

(i) The tax consequences to each party.

Prior Codifications

* §DMR.2.5.020 was formerly codified as LCOTCC §3.30

**Subchapter DMR.2.7
Division of Property and Assignment of Debts**



DMR.2.7.010 Policy for Division of Property and Assignment of Debts DMR.2.7-1
 DMR.2.7.020 Definition DMR.2.7-1
 DMR.2.7.030 Equal Division Presumed DMR.2.7-1

DMR.2.7.010 Policy for Division of Property and Assignment of Debts

It is the policy of the Tribe to recognize that both spouses in a marriage contribute to the financial well-being of the marriage, sometimes by working, and sometimes by staying home and taking care of children, the household, or other family obligations. Upon dissolution of a marriage, the contributions of both spouses must be recognized.

Prior Codifications

* §DMR.2.7.010 was formerly codified as LCOTCC §3.36

DMR.2.7.020 Definition

The "marital estate" is the income and assets accumulated by the spouses during their marriage, not including gifts or inheritances received by one spouse individually during the marriage. The marital estate does not include individually owned property brought into the marriage by each spouse, but does include income, interest, dividends or increase in value earned by that property during the marriage. The marital estate is reduced by the debts incurred by the parties during the marriage, but not by the individual debts of the parties brought into the marriage, which remain the individual responsibility of the individual who incurred the debt. The Court may determine the extent to which debts incurred individually by one spouse after separation reduce the marital estate. The title by which property or debt is held is not determinative of whether it is part of the marital estate. The parties may, by marital property agreement freely entered into upon full disclosure, modify their marital estate and provide for the division of property and assignment of debts in the event of divorce or separation.

Prior Codifications

* §DMR.2.7.020 was formerly codified as LCOTCC §3.37

DMR.2.7.030 Equal Division Presumed

In any divorce or separation proceeding, the Court shall presume that an equal division of the marital estate between the parties, taking into account the debts assumed by each and the property awarded to each, is consistent with the policy stated in subsec. (a) and

with fairness and equity to the parties. The Court may deviate from this presumption for good cause.

Prior Codifications

- * §DMR.2.7.030 was formerly codified as LCOTCC §3.38

**Subchapter DMR.2.8
Payment of Maintenance or Support**



DMR.2.8.010 Payments to the Clerk of Court or LCO Child Support Program DMR.2.8-1
 DMR.2.8.020 Payment Record DMR.2.8-1
 DMR.2.8.030 Change of Address..... DMR.2.8-2
 DMR.2.8.040 Failure to Pay..... DMR.2.8-2
 DMR.2.8.050 Wage Assignment for Support or Maintenance..... DMR.2.8-2

DMR.2.8.010 Payments to the Clerk of Court or LCO Child Support Program

(a) Upon its own motion or upon motion of either party, the Court may order at any time that child support payments be made to the LCO Child Support Program for remittance to the person entitled to receive payments.

(b) For cases where child support and maintenance are ordered by the Court, payments for both obligations will be made to the LCO Child Support Program for remittance to the person entitled to receive the payments.

(1) For receiving and disbursing maintenance payments involving minor children and child support payments, including payment for arrears or fees, LCO Child Support Program will not charge a receipt and disbursement processing fee.

(c) For cases where maintenance payments are ordered by the Court wherein no minor children are involved, payments will be made to the Clerk of Court for remittance to the person entitled to receive the payment.

(1) The Court may order the payor to also remit annually to the Clerk of Courts a receiving and disbursing fee of \$50.

Prior Codifications

* §DMR.2.8.010 was formerly codified as LCOTCC §3.39

DMR.2.8.020 Payment Record

LCO Child Support Program shall maintain records listing the amount and type of obligation ordered, the amount of payments, the date payments are due and the date received, the balance of each account debt, and the names and addresses of the parties affected by the order.

Prior Codifications

* §DMR.2.8.020 was formerly codified as LCOTCC §3.40

DMR.2.8.030 Change of Address

The parties affected by the order shall inform LCO Child Support Program and the Clerk of Court of any change of address within ten (10) days of such change.

Prior Codifications

- * §DMR.2.8.030 was formerly codified as LCOTCC §3.41

DMR.2.8.040 Failure to Pay

If a person obligated to pay support or maintenance fails to do so the LCO Child Support Program or any party entitled to such maintenance or support may institute an action requesting:

(a) An order for the payor to show cause why he or she should not be subject to contempt of court.

(b) A finding of contempt of court may include enforcement options including, but not limited to, the opportunity for the payor to purge him or herself of the contempt finding or incarceration.

Prior Codifications

- * §DMR.2.8.040 was formerly codified as LCOTCC §3.42

DMR.2.8.050 Wage Assignment for Support or Maintenance

(a) Each order for child support or maintenance payments constitutes an assignment to the intended recipient of the support or maintenance of all income as described in Section DMR.6.6.050(a) which includes commissions, earnings, salaries, wages, pension benefits, workers compensation or unemployment insurance benefits, lottery prizes that are payable in installments and other money due or to be due in the future. The assignment shall be for an amount sufficient to ensure payment under the order or stipulation and to pay any arrearages due at a periodic rate not to exceed 65% of the amount of support due under the order or stipulation so long as the addition of the amount toward arrearages does not exceed the amounts allowed to be intercepted for child support purposes pursuant to the Federal Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(b) Each individual ordered to pay child support or maintenance shall, under oath and under penalty of contempt of court, at the time of the order disclose to the court and the recipient of the child support or maintenance all of his or her sources of income, including the names and addresses of all payors of income to him or her. Such individual shall thereafter notify the Clerk of Court and LCO Child Support Program of any change of employer or addition or loss of source of income within ten (10) days of such change.

(c) LCO Child Support Program shall prepare and send to each employer and source of income a Notice of Income Withholding Order, using the federal form as required under 45 CFR 309.110, in an amount sufficient to ensure payment as provided in subsec. (a).

(1) The individual ordered to pay child support or maintenance wherein minor children are involved shall pay his or her obligation directly to the LCO Child Support Program until during any period of time when a wage withholding is not effectuated by an employer or other source of income.

(2) The individual ordered to pay maintenance wherein no minor children are involved shall pay his or her obligation directly to the Clerk of Court until during any period of time when a wage withholding is not effectuated by an employer or other source of income.

(d) Any employer or other source of income who receives an Income Withholding Order may deduct from each payment a sum not exceeding five (5) dollars as reimbursement for costs.

(e) Should an income withholding order not be in place immediately, the LCO Child Support Program must immediately issue a Notice of Income Withholding Order to the employer should the payor become delinquent equal to the support for one month.

(f) LCO Child Support Program will promptly terminate the income withholding order where there is no longer a current order for child support and all arrearages have been satisfied.

(g) LCO Child Support Program will promptly refund any amounts which have been improperly withheld.

(h) An employer shall not discharge or otherwise discipline an employee solely as a result of a wage or salary assignment authorized by this section.

(i) Should an employer fail to withhold child support payments pursuant to the terms of the income withholding order and remit said payments to the LCO Child Support Program within five (5) days of the pay period, the employer shall be responsible to pay the amounts that should have been withheld.

(j) The Court shall enforce a valid income withholding order made by another jurisdiction and shall not make modifications to that order except as allowed by applicable law. The Tribal Court is not required to honor any wage withholding order from a foreign

jurisdiction unless said order has been submitted to the LCO Child Support Program who will register and file said order with the Court as a full faith and credit order.

Prior Codifications

- * §DMR.2.8.050 was formerly codified as LCOTCC §3.43

Subchapter DMR.2.9
Modification of Financial and Property Provisions



DMR.2.9.010 Child Support.....	DMR.2.9-1
DMR.2.9.020 Maintenance	DMR.2.9-1
DMR.2.9.030 Property and Debt	DMR.2.9-2
DMR.2.9.040 Death, Remarriage.....	DMR.2.9-2

DMR.2.9.010 Child Support

(a) A child support order may be revised upon on a showing of a substantial change of circumstances. A substantial change in circumstances includes, but is not limited to, the following:

- (1) An increase or decrease of annual income of 5% or more;
- (2) A change in the placement of the child;
- (3) A change in the overnight visitation of the child 92 overnight visits or more;
and/or
- (4) A finding of physical or mental disability of the payor.

(b) If a party is seeking a modification they shall first complete and submit a Request for Review with the LCO Child Support Enforcement Program. The LCO Child Support Program shall first attempt to reach an agreement for modification with both parties and submit a Stipulation and Order to the Tribal Court. Should these efforts fail, the LCO Child Support Program shall file a Motion for Review and Modification with the Tribal Court and a hearing will be scheduled.

Prior Codifications

- * §DMR.2.9.010 was formerly codified as LCOTCC §3.44

DMR.2.9.020 Maintenance

(a) Maintenance if not awarded at the final divorce hearing is waived forever.

(b) Maintenance if awarded at the final divorce hearing may be revised upon a showing of a substantial change of circumstances.

Prior Codifications

- * §DMR.2.9.020 was formerly codified as LCOTCC §3.45

DMR.2.9.030 Property and Debt

Property division and assignment of debts may not be revised.

Prior Codifications

* §DMR.2.9.030 was formerly codified as LCOTCC §3.46

DMR.2.9.040 Death, Remarriage

(a) Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(b) Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of the minor child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked or commuted to a lump sum payment to the extent just and appropriate in the circumstances.

Prior Codifications

* §DMR.2.9.040 was formerly codified as LCOTCC §3.47

**Subchapter DMR.2.10
Costs and Attorney Fees**



DMR.2.10.010 Costs and Attorney Fees to Equalize Advantage.....DMR.2.10-1
 DMR.2.10.020 Costs and Attorney Fees as Sanction.....DMR.2.10-1

DMR.2.10.010 Costs and Attorney Fees to Equalize Advantage

The Court may award costs and attorney fees, in a temporary order or a final judgment, if the party seeking fees has need of the fees to equalize the parties' ability to pursue relief in the action, if the party asked to pay the fees can afford the fees, and if the fees requested are reasonable.

Prior Codifications

* §DMR.2.10.010 was formerly codified as LCOTCC §3.48

DMR.2.10.020 Costs and Attorney Fees as Sanction

The Court may award costs and attorney fees, in a temporary order or a final judgment, if the party seeking the fees has been compelled to incur attorney fees or costs to enforce a previously issued court order that the other party has unreasonably failed to obey, or if the party seeking the fees has been compelled to incur attorney fees or costs to defend against any action prohibited by Section TCT.2.9.040(c).

Prior Codifications

* §DMR.2.10.020 was formerly codified as LCOTCC §3.49

Subchapter DMR.2.13 Visitation Rights for Grandparents and Others



DMR.2.13.010 Purpose	DMR.2.13-1
DMR.2.13.020 Visitation Rights.....	DMR.2.13-1
DMR.2.13.030 Procedure.....	DMR.2.13-1
DMR.2.13.040 Standards	DMR.2.13-2
DMR.2.13.050 Order.....	DMR.2.13-2
DMR.2.13.060 Guardian Ad Litem Fees.....	DMR.2.13-3
DMR.2.13.070 Modifications	DMR.2.13-3

DMR.2.13.010 Purpose

The purpose of this section is to preserve the opportunity of children who are members of the Tribe, or eligible for membership in the Tribe, to form and maintain meaningful relationships with grandparents, stepparents, and others who play an important role in their care, development, education, or nurturance.

Prior Codifications

- * §DMR.2.13.010 was formerly codified as LCOTCC §3.60

DMR.2.13.020 Visitation Rights

Upon petition by a child's grandparent, great-grandparent, stepparent, aunt, uncle, or other person with an interest in the child, except a parent, the Court may order visitation rights with the child.

Prior Codifications

- * §DMR.2.13.020 was formerly codified as LCOTCC §3.61

DMR.2.13.030 Procedure

The Clerk of Court shall schedule a hearing on the petition to be held within 60 days of its filing. A copy of any petition filed under this section shall be served on each of the child's parents, and any guardian other than a parent, together with a notice of hearing which specifies that the hearing shall be on the merits of the petition and that the court may make a visitation award at the close of the hearing. A guardian ad litem shall be appointed in all cases upon the filing of a petition under this section, unless the visitation order is stipulated to by the petitioner, the child's parents, and any other guardian.

Prior Codifications

- * §DMR.2.13.030 was formerly codified as LCOTCC §3.62

DMR.2.13.040 Standards

The Court may order visitation rights if it finds that such an order would be in the best interests of the child. The Court shall take into account the following factors:

(a) The family relationship of the petitioner to the child, provided that visitation rights may be awarded notwithstanding the death or termination of parental rights of either or both of the child's parents.

(b) The length and quality of the relationship of the petitioner with the child.

(c) The family relationship, and length and quality of the relationship, between the petitioner and each of the child's parents and any other guardian.

(d) The nature of each of the parent's and other guardian's relationships with the child, and the parents' and guardians' ability to provide appropriate care to the child without visitation by the petitioner.

(e) The relationship between the child's parents, provided that visitation rights may be awarded whether or not the parents' relationship is intact.

(f) The child's wishes, taking into account the age of the child.

(g) The benefits and detriments to the child of awarding visitation rights to the petitioner.

(h) The feasibility of fashioning an award of visitation rights while minimizing interference with the parents' custodial rights.

(i) Such other factors as the Court deems appropriate.

Prior Codifications

* §DMR.2.13.040 was formerly codified as LCOTCC §3.63

DMR.2.13.050 Order

(a) Within 30 days of the hearing, the Court shall grant or deny the petition, or grant the petition conditionally or with such modifications as are in the best interest of the child. All orders shall be in writing and shall specify to the greatest extent practicable the particular rights, if any, that are awarded.

(b) An order may award visitation rights under the circumstances prevailing at the time of the order, and may also award contingent visitation rights under circumstances that may reasonably be expected to occur at a future time, provided that any such award of contingent rights is reviewable under Section DMR.2.13.040(f).

(c) Any person served with a copy of a notice and petition under subsec. (c), and with a copy of an order under this section, shall be required to comply with the terms of the order, and may be proceeded against for contempt of court for any interference therewith.

Prior Codifications

- * §DMR.2.13.050 was formerly codified as LCOTCC §3.64

DMR.2.13.060 Guardian Ad Litem Fees

The Court may order the petitioner, parent, guardian, or any of them, to contribute to the payment of the guardian ad litem fees.

Prior Codifications

- * §DMR.2.13.060 was formerly codified as LCOTCC §3.65

DMR.2.13.070 Modifications

Any order issued under this section may be modified upon motion, notice, and hearing, or upon the agreement of all parties.

Prior Codifications

- * §DMR.2.13.070 was formerly codified as LCOTCC §3.66

**Subchapter DMR.2.16
Name Changes**



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DMR.2.16.010 Applicability

Any member of the Tribe who is a resident on any reservation or trust lands of the Tribe may petition the Tribal Court to change his or her name according to the procedures in this chapter.

Prior Codifications

* §DMR.2.16.010 was formerly codified as LCOTCC §3.85

DMR.2.16.020 Who May Petition

(a) Change of name for an adult. Any adult 18 years of age or older may file a petition to change his or her name.

(b) Change of name for a child 14 years of age or older. Any child 14 years of age or older may file a petition to change his or her name, subject to the notice requirements provided in this chapter.

(c) Change of name for a child under 14 years of age.

(1) When a child is a marital child whose parents are married to each other at the time of the petition, both parents must petition to change the child's name.

(2) When a child's parents are not married to each other at the time of the petition but have a divorce, paternity, or other judgment establishing their joint custody of the child, both parents must petition to change the child's name.

(3) When one parent is deceased, or has had his or her parental rights terminated by court order, and the remaining parent has custody and placement of the child, that parent may petition to change the child's name.

(4) In all cases other than those described in subsections (b) and (c)(1) - (3) of this section, the parent who is the legal custodian of the child, or the guardian of the child, may petition to change the child's name, subject to the notice requirements provided in this chapter.

Prior Codifications

* §DMR.2.16.020 was formerly codified as LCOTCC §3.86

DMR.2.16.030 Filing Fee

The clerk of court shall collect from petitioner at the time the petition is filed a filing fee as set by court rule.

Prior Codifications

* §DMR.2.16.030 was formerly codified as LCOTCC §3.87

DMR.2.16.040 Contents of Petition

The petition shall contain the following information:

(a) The full name, place of birth, date of birth, age, current address of the subject of the name change.

(b) That the subject of the name change is a member of the Tribe and resides on the Reservation.

(c) If the subject of the name change is a child under the age of 14 years, the full name and address of the petitioner, and the relationship of the petitioner to the subject of the name change.

(d) If the subject of the name change is a child under the age of 14 years, the names and addresses of both of the child's parents, whether the parents are married to each other, the custodial and physical placement relationship of each parent to the child if the parents are not married to each other, whether or not the child has a guardian other than either or both of the parents, and whether either parent is deceased or has had his or her parental rights terminated. If any court has entered any order affecting the custody, physical placement, guardianship, or parental rights to the child, a copy of such order shall be attached to the petition.

(e) The reason for the name change.

(f) The proposed name change.

(g) Whether or not the adult subject of the name change possesses a professional license, other than a teaching license, issued under his or her current name, and whether or

not the licensing agency has made any determination that the proposed change of name would allow unfair competition with another practitioner or would mislead the public.

Prior Codifications

* §DMR.2.16.040 was formerly codified as LCOTCC §3.88

DMR.2.16.050 Notice of Proposed Name Change

(a) Notice of the proposed name change shall be published by the petitioner once each week for three consecutive weeks in a newspaper of general circulation in the area of petitioner's residence.

(b) Notice of any petition filed under Section DMR.2.16.020(b) and Section DMR.2.16.020(c)(4) shall be served no later than ten days before the hearing on any living non-petitioning parent or guardian, except that no notice need be served on any parent whose parental rights have been terminated by court order. Service may be by any method permitted under Section TCT.2.9.020 of the Court Code, or by certified mail, return receipt requested.

(c) The notice of the proposed name change shall state substantially as follows:

(1) The name of the subject of the name change and the name of the petitioner, if different.

(2) The proposed change of name.

(3) The date, time, and place of the hearing on the name change.

(4) Advice that anyone wishing to object to the name change must appear at the date, time, and place given.

(5) The date and signature of the Clerk of Court or Deputy Clerk of Court.

Prior Codifications

* §DMR.2.16.050 was formerly codified as LCOTCC §3.89

DMR.2.16.060 Hearing on Name Change

At the date, time, and place set for hearing, the Court shall determine whether or not the petition shall be granted.

Prior Codifications

* §DMR.2.16.060 was formerly codified as LCOTCC §3.90

DMR.2.16.070 Order for Name Change

(a) If the court determines that the petition should be granted, the Court shall enter an order so doing.

(b) If the person whose name was changed was born or married in the State of Wisconsin, the Clerk of Court shall send to the State of Wisconsin registrar of vital statistics an abstract of the order, on forms provided by the registrar. The fee for filing the abstract shall be collected from petitioner by the clerk.

(c) If the person whose name was changed was born or married in a state other than Wisconsin, the Clerk of Court shall send forms to the appropriate vital statistics agency at the request and expense of the petitioner, upon the petitioner's supplying any requested information to the Clerk of Court.

(d) The petition may obtain as many certified copies of the order as desired upon payment of the fees as set by the Court pursuant to Section TCT.2.15.010.

Prior Codifications

- * §DMR.2.16.070 was formerly codified as LCOTCC §3.91

Subchapter DMR.2.17
Domestic Abuse Restraining Orders and Injunctions



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DMR.2.17.010 Definitions

(a) "Domestic abuse" means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult against his or her adult former spouse or by an adult against an adult with whom the person has a child in common:

(1) Intentional infliction of physical pain, physical injury or illness.

(2) Intentional impairment of physical condition.

(3) A violation of the sexual assault prohibitions contained in sec. 940.225 (1), (2) or (3), Wisconsin Statutes.

(4) A threat to engage in the conduct under subd. 1, 2 or 3.

(b) "Family member" means a spouse, a parent, a child or a person related by consanguinity to another person.

(c) "Household member" means a person currently or formerly residing in a place of abode with another person.

(d) "Reservation" means the Lac Courte Oreilles Reservation.

(e) "Tribal court" means the Lac Courte Oreilles Tribal Court.

(f) "Tribal order or injunction" means a temporary restraining order or injunction issued by the Lac Courte Oreilles Tribal Court under this section.

(g) "Tribe" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(h) "Chief of police" or "chief" means the Tribe's chief law enforcement officer.

Prior Codifications

* §DMR.2.17.010 was formerly codified as LCOTCC §3.92

DMR.2.17.020 Commencement of Action and Response

(a) Any person living on the Reservation may commence an action under this chapter as long as either the petitioner or respondent or both is a member of the Tribe.

(b) No action under this section may be commenced by complaint and summons. An action under this section may be commenced only by a petition described under Section DMR.2.17.060(a). The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. If the judge extends the time for a hearing under Section DMR.2.17.040(c) and the petitioner files an affidavit with the court stating that personal service by the sheriff or the chief of police or a private server in the manner provided by sec. 801.11 (1) (a) or (b), Wis. Stats., was unsuccessful because the respondent is avoiding service by concealment or otherwise, the petitioner may serve the respondent by publication of the petition in the manner provided for a class 1 notice under ch. 985, Wisconsin Statutes, and by mailing if the respondent's post-office address is known or can with due diligence be ascertained. The mailing may be omitted if the post-office address cannot be ascertained with due diligence.

(c) No security need be posted by a petitioner seeking a restraining order or injunction under this chapter. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing.

(d) TWO-PART PROCEDURE. Procedure for an action under this chapter is in two parts. First, if the petitioner requests a temporary restraining order the court shall issue or refuse to issue that order. Second, the court shall hold a hearing under Section DMR.2.17.040 on whether to issue an injunction, which is the final relief. If the court issues a temporary restraining order, the order shall set forth the date for the hearing on an injunction. If the court does not issue a temporary restraining order, the date for the hearing shall be set upon motion by either party.

Prior Codifications

* §DMR.2.17.020 was formerly codified as LCOTCC §3.93

DMR.2.17.030 Temporary Restraining Order

(a) A judge or magistrate shall issue a temporary restraining order ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. 2 (a), or any premises temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney to contact the petitioner unless the petitioner consents in writing, or any combination of these remedies requested in the petition, if all of the following occur:

(1) The petitioner submits to the judge or magistrate a petition alleging the elements set forth under Section DMR.2.17.060(a).

(2) The judge or magistrate finds reasonable grounds to believe that the respondent has engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. In determining whether to issue a temporary restraining order, the judge or magistrate shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or magistrate may grant only the remedies requested or approved by the petitioner.

(b) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or magistrate may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(c) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

(d) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under Section DMR.2.17.040. The temporary restraining order is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. A judge or magistrate shall hold a hearing on issuance of an injunction within 7 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties or extended once for 14 days upon a finding by a judge or magistrate that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence.

(e) The judge or magistrate shall advise the petitioner of the right to serve the respondent the petition by published notice if with due diligence the respondent cannot be

served in the manner provided by secs. 801.11 (1) (a) or (b), Wis. Stats. The clerk of court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing.

Prior Codifications

* §DMR.2.17.030 was formerly codified as LCOTCC §3.94

DMR.2.17.040 Injunction

(a) A judge or magistrate may grant an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney to contact the petitioner unless the petitioner consents to that contact in writing, or any combination of these remedies requested in the petition, if all of the following occur:

(1) The petitioner files a petition alleging the elements set forth under Section DMR.2.17.060(a).

(2) The petitioner serves upon the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.

(3) After hearing, the judge or magistrate finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. In determining whether to issue an injunction, the judge or magistrate shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or magistrate may grant only the remedies requested by the petitioner.

(b) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or magistrate may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(c) The judge or magistrate may enter an injunction only against the respondent named in the petition. No injunction may be issued under this subsection under the same case number against the person petitioning for the injunction. The judge or magistrate may not modify an order restraining the respondent based solely on the request of the respondent.

(d)

(1) An injunction under this section is effective according to its terms, for the period of time that the petitioner requests, but not more than 2 years. An injunction granted under this section is not voided by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid.

(2) When an injunction granted for less than 2 years expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her. This extension shall remain in effect until 2 years after the date the court first entered the injunction.

(3) Notice need not be given to the respondent before extending an injunction under Section DMR.2.17.020. The petitioner shall notify the respondent after the court extends an injunction under Section DMR.2.17.020.

Prior Codifications

* §DMR.2.17.040 was formerly codified as LCOTCC §3.95

DMR.2.17.050 Notice of Restriction on Firearm Possession; Surrender of Firearms

(a) An injunction issued under Section DMR.2.17.040 shall do all of the following:

(1) Inform the respondent named in the petition of the requirements and penalties under sec. 941.29, Wis. Stats.

(2) Except as provided in par. (2) (a), require the respondent to surrender any firearms that he or she owns or has in his or her possession to the chief of police, to the sheriff of the county in which the respondent resides, or to another person designated by the respondent and approved by the judge or magistrate. The judge or magistrate shall approve the person designated by the respondent unless the judge or magistrate finds that the person is inappropriate and places the reasons for the finding on the record. If a firearm is surrendered to a person designated by the respondent and approved by the judge or magistrate, the judge or magistrate shall inform the person to whom the firearm is surrendered of the requirements and penalties under sec. 941.29 (4), Wisconsin Statutes.

(A) If the respondent is a peace officer, an injunction issued under Section DMR.2.17.040 may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(B) 1. When a respondent surrenders a firearm under par. (a) 2. to the chief of police or a sheriff, the chief or sheriff who is receiving the firearm shall prepare a receipt for each firearm surrendered to him or her. The receipt shall include the manufacturer, model and serial number of the firearm surrendered to the chief or

sheriff and shall be signed by the respondent and by the chief or sheriff to whom the firearm is surrendered.

(3) The chief of police or the sheriff shall keep the original of a receipt prepared under par. (b) (1) and shall provide an exact copy of the receipt to the respondent. When the firearm covered by the receipt is returned to the respondent under par. (d), the chief or sheriff shall surrender to the respondent the original receipt and all of his or her copies of the receipt.

(4) A receipt prepared under par. (b) (1) is conclusive proof that the respondent owns the firearm for purposes of returning the firearm covered by the receipt to the respondent under par. (d).

(5) The chief or police or sheriff may not enter any information contained on a receipt prepared under par. (b) (1) into any computerized or direct electronic data transfer system in order to store the information or disseminate or provide access to the information.

(b) The chief of police or a sheriff may store a firearm surrendered to him or her under par. (a) 2. in a warehouse that is operated by a public warehouse keeper licensed under ch. 99 of the Wisconsin Statutes. If the chief or a sheriff stores a firearm at a warehouse under this paragraph, the respondent shall pay the costs charged by the warehouse for storing that firearm.

(c) A firearm surrendered under par. (a) 2. may not be returned to the respondent until a judge determines all of the following:

(1) That the injunction issued under Section DMR.2.17.040 has been vacated or has expired and not been extended.

(2) That the person is not prohibited from possessing a firearm under any tribal, state or federal law or by the order of the Tribal Court or any federal court or state court, other than an order from which the judge is competent to grant relief.

(d) If a respondent surrenders a firearm under par. (a) 2. that is owned by a person other than the respondent, the person who owns the firearm may apply for its return to court. The court shall order such notice as it considers adequate to be given to all persons who have or may have an interest in the firearm and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the firearm returned. If the court returns a firearm under this paragraph, the court

shall inform the person to whom the firearm is returned of the requirements and penalties under sec. 941.29 (4), Wisconsin Statutes.

Prior Codifications

* §DMR.2.17.050 was formerly codified as LCOTCC §3.96

DMR.2.17.060 Petition

(a) The petition shall allege facts sufficient to show the following:

(1) The name of the petitioner and that the petitioner is the alleged victim.

(2) The name of the respondent and that the respondent is an adult.

(3) That the respondent engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

(4) That the petitioner's living premises are on the Reservation and that either the petitioner or respondent is a member of the Tribe.

(b) The petition shall request that the respondent be restrained from committing acts of domestic abuse against the petitioner, that the respondent be ordered to avoid the petitioner's residence, or that the respondent be ordered to avoid contacting the petitioner or causing any person other than the respondent's attorney to contact the petitioner unless the petitioner consents to the contact in writing, or any combination of these requests.

(c) The Clerk of Court shall provide the simplified forms developed by the State of Wisconsin to help a person file a petition. A petitioner may use the standard State of Wisconsin forms to file a petition, but shall insert facts sufficient to show that the petitioner's living premises are on the Reservation and that either the petitioner or respondent is a member of the Tribe.

(d) A judge or magistrate shall accept any legible petition for a temporary restraining order or injunction.

(e) No filing fee shall be charged for the filing of a petition under this chapter.

Prior Codifications

* §DMR.2.17.060 was formerly codified as LCOTCC §3.97

DMR.2.17.070 Enforcement Assistance

(a) If an order is issued under this section, upon request by the petitioner the court shall order the chief of police or sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence or to otherwise assist in executing or serving the temporary restraining order or injunction. The petitioner may, at the petitioner's expense, use a private process server to serve papers on the respondent.

(b) Within one business day after any court order under Section DMR.2.17.030 or Section DMR.2.17.040 is issued, the Clerk of Court shall file an authenticated copy of the order with the clerk of circuit court in the county in which is located the petitioner's premises. The clerk may require prepayment from the petitioner for any fee that the clerk of circuit court will charge for such filing. An order issued under Section DMR.2.17.030 or Section DMR.2.17.040 may be authenticated by the clerk by affixing the seal of the court and providing the wording, "Authenticated copy of record on file with the Lac Courte Oreilles Tribal Court" followed by the clerk's signature and date.

(c) Within one business day after an order or injunction is issued, extended, modified or vacated under this section, the Clerk of Court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the chief of police and to the sheriff or to any other local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the petitioner's premises.

(d) No later than 24 hours after receiving the information under par. (b), the chief of police shall enter the information concerning an order or injunction issued, extended, modified or vacated under this section into the transaction information for management of enforcement system. The chief of police shall also make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under this section. The information need not be maintained after the order or injunction is no longer in effect.

Prior Codifications

* §DMR.2.17.070 was formerly codified as LCOTCC §3.98

DMR.2.17.080 Arrests

A law enforcement officer shall arrest and take a person into custody if all of the following occur:

(a) The court order issued under Section DMR.2.17.030 or Section DMR.2.17.040 has been filed with any Wisconsin circuit court pursuant to sec. 806.247, Wisconsin Statutes.

(b) A petitioner under Section DMR.2.17.060 presents the law enforcement officer with a copy of a court order issued under Section DMR.2.17.030 or Section DMR.2.17.040, or the law enforcement officer determines that such an order exists through communication with appropriate authorities.

(c) The law enforcement officer has probable cause to believe that the person has violated the court order issued under Section DMR.2.17.030 or Section DMR.2.17.040.

Prior Codifications

* §DMR.2.17.080 was formerly codified as LCOTCC §3.99

DMR.2.17.090 Transcripts

The judge or magistrate shall make an audio or other record of the temporary restraining order or injunction hearing.

Prior Codifications

- * §DMR.2.17.090 was formerly codified as LCOTCC §3.100

DMR.2.17.100 Penalty

(a) Whoever knowingly violates a temporary restraining order or injunction issued under Section DMR.2.17.030 or Section DMR.2.17.040 shall be required to forfeit not more than \$5,000 and may be subject to state penalties of a fine not to exceed \$1,000 or imprisonment for not more than 9 months or both in any case where a restraining order or injunction has been filed in Wisconsin circuit court under sec. 806.247(3), Wisconsin Statutes.

(b) The petitioner does not violate the court order under Section DMR.2.17.030 or Section DMR.2.17.040 if he or she admits into his or her residence a person ordered under Section DMR.2.17.030 or Section DMR.2.17.040 to avoid that residence.

Prior Codifications

- * §DMR.2.17.100 was formerly codified as LCOTCC §3.101

DMR.2.17.110 Notice of Full Faith and Credit

An order or injunction issued under Section DMR.2.17.030 or Section DMR.2.17.040 shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and other Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.

Prior Codifications

- * §DMR.2.17.110 was formerly codified as LCOTCC §3.102

**Chapter DMR.3
Guardianship of Adults and Protective Placement Code of the Lac Courte Oreilles Band of
Lake Superior Chippewa Indians**



DMR.3.1 Introduction DMR.3.1-1
DMR.3.2 Definitions..... DMR.3.2-1
DMR.3.3 Jurisdiction..... DMR.3.3-1
DMR.3.4 Adult Guardianships..... DMR.3.4-1
DMR.3.5 Adult Guardianship Procedures DMR.3.5-1
DMR.3.6 Protective Placement DMR.3.6-1
DMR.3.7 Termination or Changes DMR.3.7-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1 (s), (t), and (u) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice ..." Article V, § 1 (s); "provide for the regulation of ... domestic relations matters by ordinances or resolution" Article V, § 1 (t); "provide for the appointment of guardians for ... mental incompetents by ordinance or resolution" Article V, § 1 (u). The Lac Courte Oreilles Band of Lake Superior Chippewa Indians recognizes the need to promote the traditional value of respect for adults in need of protective placement or guardianship. The Tribe recognizes that adults that suffer from physical or mental disability, incapacity, other disability, or are substantially impaired whether from age, disease, alcohol, substance abuse, or psychological problems all deserve to lead a life of safety and respect. The dignity, self-reliance and rights of adults in need of protective placement or guardianship must be respected by family members, the Tribal community, employees of the Tribe and all people who are part of or inter-act with the Tribe and its adults in need of protective placement or guardianship. It is the purpose of this ordinance to protect the health, safety and welfare of all persons within the jurisdiction of the Lac Courte Oreilles Tribe and to codify a process and procedure governing the appointment of a Guardian for Adults who are incapable of managing their own affairs, require assistance in conducting business, or require assistance in obtaining necessary services. Thus, it is in the best interest of and serves the welfare of the Tribe to protect adults in need of protective placement or guardianship.

**Subchapter DMR.3.1
Introduction**



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 DMR.3.1.050 Effective Date DMR.3.1-2
 DMR.3.1.060 Interpretation..... DMR.3.1-2
 DMR.3.1.070 Severability and Non-Liability DMR.3.1-3
 DMR.3.1.080 Repeal of Inconsistent Tribal Ordinances DMR.3.1-3

DMR.3.1.010 Title

This ordinance shall be known as the Guardianship of Adults and Protective Placement Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.010 was formerly codified as VII LCOTCL §3.101

DMR.3.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1 (s), (t), and (u) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice ..." Article V, § 1 (s); "provide for the regulation of ... domestic relations matters by ordinances or resolution" Article V, § 1 (t); "provide for the appointment of guardians for ... mental incompetents by ordinance or resolution" Article V, § 1 (u).

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.020 was formerly codified as VII LCOTCL §3.102

DMR.3.1.030 Policy

It is the policy of the Lac Courte Oreilles Tribe to promote the traditional value of respect for adults in need of protective placement or guardianship. The Tribe recognizes that adults that suffer from physical or mental disability, incapacity, other disability, or are substantially impaired whether from age, disease, alcohol, substance abuse, or psychological problems all deserve to lead a life of safety and respect. The dignity, self-reliance and rights of adults in need of protective placement or guardianship must be respected by family members, the Tribal community, employees of the Tribe and all people who are part of or inter-act with the Tribe and its adults in need of protective placement or guardianship. Thus, it is in the best interest of and serves the welfare of the Tribe to protect adults in need of protective placement or guardianship.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.030 was formerly codified as VII LCOTCL §3.103

DMR.3.1.040 Purpose

It is the purpose of this ordinance to protect the health, safety and welfare of all persons within the jurisdiction of the Lac Courte Oreilles Tribe and to codify a process and procedure governing the appointment of a Guardian for Adults who are incapable of managing their own affairs, require assistance in conducting business, or require assistance in obtaining necessary services.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.040 was formerly codified as VII LCOTCL §3.104

DMR.3.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.050 was formerly codified as VII LCOTCL §3.105

DMR.3.1.060 Interpretation

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to promote and protect the well-being of the person;

(b) Shall be used to encourage the development of maximum self-reliance and independence of the person;

(c) Shall be utilized only to the extent necessitated by the person's actual mental and physical limitations;

(d) Shall be liberally construed in favor of the Tribe;

(e) Shall not be deemed a limitation or repeal of any other tribal power or authority;

(f) Does not waive the sovereign immunity of the Tribe in any respect.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.060 was formerly codified as VII LCOTCL §3.106

DMR.3.1.070 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.070 was formerly codified as VII LCOTCL §3.107

DMR.3.1.080 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.1.080 was formerly codified as VII LCOTCL §3.108

**Subchapter DMR.3.2
Definitions**



DMR.3.2.010 General Definitions..... DMR.3.2-1

DMR.3.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"Guardian"** means an individual who is appointed by any Court to manage the income and assets and provide for the essential requirements and safety and the personal needs of an individual found to be incompetent;

(b) **"Guardian ad Litem"** means an individual who is appointed by the Court to represent the best interests of the proposed ward;

(c) **"Incapacity"** means the current functional inability of a person to sufficiently understand, make, and communicate responsible decisions about him/herself as a result of mental illness, mental deficiency, physical illness or disability, or chronic use of drugs or alcohol, and to understand the consequences of any such decision. Incapacity may vary in degree and duration and shall not be determined solely on the basis of age.

(d) **"Person"** means a proposed ward who is a member of the Tribe or is eligible for membership in the Tribe, whether or not domiciled on the Reservation, or an Indian person who resides within the boundaries of the Reservation.

(e) **"Proposed Ward"** means a person alleged to be incapacitated for whom a petition for guardianship is filed.

(f) **"Protective Placement"** means the placement of an individual found to be incapacitated in a hospital, nursing home, residential care facility, or transfer of the individual found to be incapacitated from one such institution to another with appropriate legal authority.

(g) **"Protective Services"** means the services provided to an individual found to be incapacitated which include, but are not limited to: social case work, psychiatric and health evaluation, home care, day care, legal assistance, social services, health care, case management, guardianship and other services consistent with this ordinance. It does not include protective placement.

(h) "**Reservation**" means lands located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(i) "**Tribal Court**" means the duly constituted court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, as established by the Tribal Governing Board, with the judicial authority of the Tribe pursuant to Tribal Governing Board Resolution 76-10, dated May 27, 1976.

(j) "**Tribe**" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.2.010 was formerly codified as VII LCOTCL §3.201

**Subchapter DMR.3.3
Jurisdiction**



DMR.3.3.010 Jurisdiction DMR.3.3-1

DMR.3.3.010 Jurisdiction

(a) The Court shall have jurisdiction over all petitions for adult guardianship over the person or estate of a person alleged to be incapacitated who is a member of the Tribe or is eligible for membership in the Tribe, whether or not domiciled on the Reservation, or an Indian person who resides within the boundaries of the Reservation.

(b) When the Court exercise jurisdiction over any Indian person who is not a member of the Tribe but who is a member of another tribe, the Court shall verify that notice was given to such other tribe, and an opportunity to participate as a witness, to intervene as a party, or to file a motion seeking transfer of proceedings to the other Tribe's Court shall be permitted. If a person's Tribe objects to the jurisdiction of the Court prior to entry of a final judgment in the case, the Court shall waive jurisdiction.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.3.010 was formerly codified as VII LCOTCL §3.301

**Subchapter DMR.3.4
Adult Guardianships**



DMR.3.4.010 Types of Adult Guardianships DMR.3.4-1
 DMR.3.4.020 Temporary Adult Guardianship..... DMR.3.4-1
 DMR.3.4.030 Duties and Powers of Guardians DMR.3.4-1

DMR.3.4.010 Types of Adult Guardianships

(a) The Court may appoint a guardian on a temporary or permanent basis, under the procedures established by this subchapter. The Court may appoint a special guardian to perform a specific task or tasks.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.4.010 was formerly codified as VII LCOTCL §3.401

DMR.3.4.020 Temporary Adult Guardianship

(a) A temporary adult guardianship shall not exceed 30 days, unless extended by the judge or magistrate for one additional period of 30 days, upon a petition and affidavit showing grounds for the appointment of a guardian. Any individual appointed temporary guardian shall post a bond in the amount required by the judge or magistrate. An order appointing a temporary guardian may be granted without hearing, notice, or appointment of a guardian ad litem.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.4.020 was formerly codified as VII LCOTCL §3.402

DMR.3.4.030 Duties and Powers of Guardians

(a) The Court may appoint a guardian of the person and a guardian of the estate of any person. An individual may serve as both guardian of the person and guardian of the estate, or different individuals may be appointed. Joint guardians may be appointed of either the person or the estate or both, provided that the joint guardians shall have joint and several liability for acts undertaken as guardian by either of them.

(b) A guardian of the person shall make all decisions for the ward and may act in the place of the ward, except that the guardian of the person may not act for, bind, or appear in any legal action affecting the property of the person. The guardian of the person may consent or refuse consent to medical treatment on behalf of the ward. The guardian of the

person may consent to the admission of the ward to any residential facility for the care or treatment of the ward, including but not limited to a hospital or other medical facility, nursing home, community based residential facility, or psychiatric facility, for no more than 90 days without a protective placement order under Section DMR.3.6.020.

(1) A guardian of the person may not consent or refuse to consent to the administration of psychotropic medication to the ward unless specifically granted the authority by the Court in the guardianship order.

(2) A guardian of the person is exempt from civil liability for acts or omissions in the performance of the duties of guardianship if the guardian acts in good faith and with the same ordinary diligence and prudence that a reasonable individual would take in the conduct of one's own affairs. This exemption from liability does not apply to any guardian of the estate who commits waste, fraud, or negligent mismanagement as to the estate.

(c) A guardian of the estate shall manage the assets, income, and financial interests of the ward for the benefit of the ward. A guardian of the estate may not sell any interest in the ward's real estate without the specific approval of the Court.

(d) No guardian shall lend or give any funds or other property of the ward or ward's estate to himself or herself. No guardian shall purchase any property of the ward unless for fair market value and with specific approval of the Court.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.4.030 was formerly codified as VII LCOTCL §3.403

**Subchapter DMR.3.5
Adult Guardianship Procedures**



DMR.3.5.010 Who May Petition for Adult Guardianship DMR.3.5-1
 DMR.3.5.020 Petition DMR.3.5-1
 DMR.3.5.030 Guardian Ad Litem..... DMR.3.5-2
 DMR.3.5.040 Notice..... DMR.3.5-2
 DMR.3.5.050 Physician's or Psychologist's Report DMR.3.5-2
 DMR.3.5.060 Guardianship Hearing and Order DMR.3.5-3
 DMR.3.5.070 Bond..... DMR.3.5-4
 DMR.3.5.080 Standards for Determining Incapacity DMR.3.5-4
 DMR.3.5.090 Inventory..... DMR.3.5-4
 DMR.3.5.100 Annual Report DMR.3.5-4
 DMR.3.5.110 Change of Address..... DMR.3.5-5

DMR.3.5.010 Who May Petition for Adult Guardianship

(a) Any individual may petition for guardianship of a proposed ward.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.010 was formerly codified as VII LCOTCL §3.501

DMR.3.5.020 Petition

(a) The petition for adult guardianship shall contain the following information:

(1) The name, residence, address, post office address, date of birth, and tribal membership status of the proposed ward, the petitioner, and of the proposed guardian or guardians.

(A) The reason guardianship is sought.

(B) Whether temporary or permanent guardianship is sought.

(C) Whether a guardian of the person or a guardian of the estate or both is sought.

(D) The income and assets of the proposed ward.

(E) Whether any guardian of the proposed ward now exists.

(2) Whether the authority to consent or refuse consent to psychotropic medication under Section DMR.3.5.060(d) is requested.

(A) Whether protective placement under Section DMR.3.6.020 is sought.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.020 was formerly codified as VII LCOTCL §3.502

DMR.3.5.030 Guardian Ad Litem

Upon receipt of a petition under Section DMR.3.5.020, the Court shall appoint a guardian ad litem for the proposed ward. The guardian ad litem shall have the right and obligation to interview the proposed ward, the petitioner, and the proposed guardian or guardians, and others as appropriate; and to review medical or other records as appropriate, and to present evidence at the hearing under Section DMR.3.5.060, and to make recommendations to the Court as to the petition.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.030 was formerly codified as VII LCOTCL §3.503

DMR.3.5.040 Notice

A copy of the petition and of a notice of hearing shall be provided to the proposed ward, to any current guardian of the proposed ward, to the guardian ad litem of the proposed ward, and to any spouse, parent, or adult child of the proposed ward, unless the Court orders for a specific reason that notice need not to be given to any such person. Notice may be given by any means allowed under Section TCT.2.9.020, no less than ten days before the hearing under Section DMR.3.5.060.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.040 was formerly codified as VII LCOTCL §3.504

DMR.3.5.050 Physician's or Psychologist's Report

No guardian shall be appointed based on any alleged mental incapacity of the proposed ward to manage the proposed ward's own affairs without the testimony of a licensed physician or psychologist. Upon stipulation of all the parties, a written report of a licensed physician or psychologist may be introduced in lieu of testimony.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.050 was formerly codified as VII LCOTCL §3.505

DMR.3.5.060 Guardianship Hearing and Order

(a) At the hearing on the petition, the Court shall hear the petitioner's evidence, the evidence offered by any other party, and the recommendations of the guardian ad litem. If the Court is satisfied by clear and convincing evidence that the proposed ward is incapable of managing his or her own affairs and that the appointment of a guardian is in the best interests of the proposed ward, the Court shall appoint a guardian or guardians who by a preponderance of the evidence, appears most suitable.

(b) The Court may impose restrictions or limitations on the powers of the guardian, and may condition the appointment on the guardian's performance of specified duties.

(c) The Court shall determine whether all of the ward's rights shall be exercised by the guardian, or whether the ward shall retain the right to exercise any particular rights.

(d) The Court shall make specific findings and orders with respect to any request for authority to consent or refuse consent to psychotropic medications. A guardian seeking such authority must prove by clear and convincing evidence the following;

(1) That the proposed ward is likely to respond positively to psychotropic medication.

(2) That as a result of the proposed ward's failure to take medication the person is unable to provide for his or her care in the community. The proposed ward's past history is relevant to determining his or her current inability to provide for his or her care in the community under this paragraph.

(3) That unless protective services, including psychotropic medication, are provided, the proposed ward will incur a substantial probability of physical harm, impairment, injury or debilitation or will present a substantial probability of physical harm to others.

(e) The Court shall make specific findings and orders with respect to a request for protective placement.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.060 was formerly codified as VII LCOTCL §3.506

DMR.3.5.070 Bond

The Court may require any guardian to post a bond as security that the guardian will faithfully perform the duties of such office. The Court may accept a signature bond.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.070 was formerly codified as VII LCOTCL §3.507

DMR.3.5.080 Standards for Determining Incapacity

No finding that a ward is incapable of managing his or her own affairs may be based on physical incapacity alone. A finding that a ward is incapable of managing his or her own affairs may be based on development disabilities; degeneration of the brain associated with aging; or organic brain damage, defect, or injury. Such a finding may also be based on inability to care for oneself based on serious and sustained abuse of alcohol or other drugs. Such a finding may also be based on the proposed ward's inability to control income and assets such as to the subject the proposed ward to risk of exploitation by others, or to endanger the health, life, or property of the proposed ward.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.080 was formerly codified as VII LCOTCL §3.508

DMR.3.5.090 Inventory

Any person appointed guardian of the estate shall complete, under oath, an inventory of all the ward's property within thirty (30) days of appointment, on forms supplied by the Clerk of Court.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.090 was formerly codified as VII LCOTCL §3.509

DMR.3.5.100 Annual Report

Any person appointed guardian of the estate shall each year complete, under oath, a report showing the ward's assets, liabilities, income, and expenses for the period of the report, on forms supplied by the Clerk of Court.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.5.100 was formerly codified as VII LCOTCL §3.510

DMR.3.5.110 Change of Address

Any guardian of the person or the estate shall notify the Clerk of Court within ten (10) days of any change of address or the guardian of the ward.

(Res. No. 17-136)

Prior Codifications

- * §DMR.3.5.110 was formerly codified as VII LCOTCL §3.511

**Subchapter DMR.3.6
Protective Placement**



DMR.3.6.010 Order..... DMR.3.6-1
 DMR.3.6.020 Request for Protective Placement..... DMR.3.6-1
 DMR.3.6.030 Annual Review..... DMR.3.6-2

DMR.3.6.010 Order

Protective placement is a court order specifying the location and conditions of the ward's residence. No person may be found to be in need of protective placement unless subject to a guardianship ordered under Subchapter DMR.3.5

(Res. No. 17-136)

Prior Codifications

* §DMR.3.6.010 was formerly codified as VII LCOTCL §3.601

DMR.3.6.020 Request for Protective Placement

(a) A request for protective placement shall be combined with a guardianship petition under Subchapter DMR.3.5, unless a guardianship has already been created, in which case, the petition shall so state.

(b) If the petitioner seeks protective placement for the ward, the petition shall allege, and the petitioner shall prove by clear and convincing evidence the following:

(1) The ward has a primary need for residential care and custody.

(2) As a result of developmental disabilities, infirmities of aging, chronic mental illness or other like incapacities, the ward is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to oneself or others. Serious harm may be occasioned by over acts of omission.

(3) The ward has a disability which is permanent or likely to be permanent.

(c) The physician's or psychologist's report required under Section DMR.3.5.060 shall also address the requirements listed in Section DMR.3.6.020(b), above in any case where protective placement is sought.

(d) If the Court orders a protective placement, it shall protectively place the ward in the least restrictive residential setting consistent with the needs of the ward.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.6.020 was formerly codified as VII LCOTCL §3.602

DMR.3.6.030 Annual Review

No less than once each twelve (12) months, the Court shall order an annual review of any protective placement, to determine if the conditions justifying the protective placement still exist:

(a) The Court shall appoint a guardian ad litem in a timely fashion to allow the guardian ad litem to complete his or tasks as set forth in Section DMR.3.6.030(b), below prior to the completion of the twelve (12) month period.

(b) The guardian ad litem shall meet with the ward, talk to the guardian, and review the medical records of the ward and the records of any facility providing the ward's residential care. The guardian ad litem shall inform the ward of the purpose of the annual review, shall determine, if possible, whether the ward wishes a hearing on the continued protective placement. The guardian ad litem shall report his or her findings and recommendations to the Court no later than fifteen (15) days before the completion of the twelve (12) month period, on forms prescribed by the Clerk of Court.

(c) If neither the ward, guardian, guardian ad litem, nor any other person requests a hearing, and if the guardian ad litem recommends continuation of the protective placement, then the Court may either hold a hearing on the continuation of the protective placement, or may order a twelve (12) month continuation of the protective placement based on the reports in the record.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.6.030 was formerly codified as VII LCOTCL §3.603

**Subchapter DMR.3.7
Termination or Changes**



DMR.3.7.010 Termination or Changes to an Order for Adult Guardianship..... DMR.3.7-1
DMR.3.7.020 Termination or Changes to an Order for Adult Protective Placement DMR.3.7-1

DMR.3.7.010 Termination or Changes to an Order for Adult Guardianship

(a) Upon motion and hearing, with notice to the guardian and ward, and appointment of a guardian ad litem, the Court may remove the guardian and a successor guardian may be appointed:

- (1) If the guardian neglects to perform any action required by law or by the Court;
- (2) If the guardian fails to discharge the duties of guardianship;
- (3) If the guardian acts contrary to the interests of the ward;
- (4) If the guardian violates any provision of this chapter.

(b) Upon motion and hearing, with notice to the guardian and ward, and appointment of a guardian ad litem, a guardianship may be terminated if by clear and convincing evidence it is established that the conditions requiring the guardianship no longer exist.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.7.010 was formerly codified as VII LCOTCL §3.701

DMR.3.7.020 Termination or Changes to an Order for Adult Protective Placement

(a) Upon motion and hearing, with notice to the guardian and ward, and appointment of a guardian ad litem, a protective placement may be changed or terminated if by clear and convincing evidence it is established that the conditions requiring the protective placement no longer exist.

(Res. No. 17-136)

Prior Codifications

* §DMR.3.7.020 was formerly codified as VII LCOTCL §3.702

**Chapter DMR.4
Elders and Vulnerable Adults Protection Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians**



DMR.4.1 Introduction DMR.4.1-1
 DMR.4.2 Definitions..... DMR.4.2-1
 DMR.4.3 Reporting and Investigations DMR.4.3-1
 DMR.4.4 Elder Protective Services and Placement DMR.4.4-1
 DMR.4.5 Emergency Situations DMR.4.5-1
 DMR.4.6 Rights and Privileges..... DMR.4.6-1
 DMR.4.7 Procedures..... DMR.4.7-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to promote the traditional value of respect for tribal elders and vulnerable adults which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice ..." It is the purpose of this ordinance to protect elders and vulnerable adults within the jurisdiction of the Lac Courte Oreilles Tribe from abuse and neglect as defined in this ordinance. This ordinance provides for: (a) reporting abuse or neglect to the proper agency; (b) receiving reports of and investigating suspected abuse or neglect; and (c) delivering elder protection services.

Subchapter DMR.4.1 Introduction



DMR.4.1.010 Title	DMR.4.1-1
DMR.4.1.020 Authority	DMR.4.1-1
DMR.4.1.030 Policy.....	DMR.4.1-1
DMR.4.1.040 Purpose	DMR.4.1-2
DMR.4.1.050 Effective Date	DMR.4.1-2
DMR.4.1.060 Interpretation.....	DMR.4.1-2
DMR.4.1.070 Severability and Non-Liability	DMR.4.1-3
DMR.4.1.080 Repeal of Inconsistent Tribal Ordinances	DMR.4.1-3

DMR.4.1.010 Title

This ordinance shall be known as the Elders and Vulnerable Adults Protection Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 15-86)

Prior Codifications

* §DMR.4.1.010 was formerly codified as VII LCOTCL §4.101

DMR.4.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice ..."

(Res. No. 15-86)

Prior Codifications

* §DMR.4.1.020 was formerly codified as VII LCOTCL §4.102

DMR.4.1.030 Policy

It is the policy of the Lac Courte Oreilles Tribe to promote the traditional value of respect for tribal elders and vulnerable adults. Elders, in particular, are valuable resources to the Tribe because they are repositories and custodians of tribal history, culture, and tradition and they are the best hope of the Tribe to pass on the tribal history, culture, and

tradition to the children of the Tribe. Elders also have valuable skills and knowledge as a result of their life experiences that, when shared, can offer important insights to younger generations and contribute to a healthy future for the Tribe. Thus, it is in the best interest of and serves the welfare of the Tribe to protect tribal elders.

(Res. No. 15-86)

Prior Codifications

- * §DMR.4.1.030 was formerly codified as VII LCOTCL §4.103

DMR.4.1.040 Purpose

It is the purpose of this ordinance to protect elders and vulnerable adults within the jurisdiction of the Lac Courte Oreilles Tribe from abuse and neglect as defined in this ordinance. This ordinance provides for:

- (a) Reporting abuse or neglect to the proper agency;
- (b) Receiving reports of and investigating suspected abuse or neglect; and
- (c) Delivering elder protection services.

(Res. No. 15-86)

Prior Codifications

- * §DMR.4.1.040 was formerly codified as VII LCOTCL §4.104

DMR.4.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 15-86)

Prior Codifications

- * §DMR.4.1.050 was formerly codified as VII LCOTCL §4.105

DMR.4.1.060 Interpretation

The provisions of this ordinance:

- (a) Shall be interpreted and applied as minimum requirements applicable to the promotion of the traditional value of respect for tribal elders and vulnerable adults subject to this ordinance;
- (b) Shall be liberally construed in favor of the Tribe;
- (c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(d) Does not waive the sovereign immunity of the Tribe in any respect.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.1.060 was formerly codified as VII LCOTCL §4.106

DMR.4.1.070 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.1.070 was formerly codified as VII LCOTCL §4.107

DMR.4.1.080 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.1.080 was formerly codified as VII LCOTCL §4.108

**Subchapter DMR.4.2
Definitions**



DMR.4.2.010 General Definitions..... DMR.4.2-1

DMR.4.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"Abuse"** means:

(1) Intentional or negligent infliction of bodily injury, unreasonable confinement, intimidation, or cruel punishment of an elder or vulnerable adult with resulting physical harm, pain or mental anguish by any person, including anyone who has a special relationship with the elder or vulnerable adult such as a spouse, a child, or other relative recognized by tribal custom, or a caretaker;

(2) Sexual abuse which includes any physical contact with an elder or vulnerable adult intended for sexual gratification of the person making such contact and which is not consented to by the elder or vulnerable adult and for which the consent is obtained by intimidation or fraud. Sexual abuse also includes marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner.

(3) Emotional abuse which includes intentional infliction of threats, humiliation or intimidation, undermining an individual's sense of self-worth and/or self-esteem constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with his or her children or grandchildren;

(4) Physical abuse which includes hitting, slapping, shoving, grabbing, pinching, biting, hair pulling, denying medical care or forcing alcohol and/or drug use;

(5) Exploitation which is the unauthorized or improper use of funds, property, or other resources of an elder or vulnerable adult; or the unauthorized or improper use of the elder or vulnerable adult by a caretaker or by any other person, for personal gain or profit; or the failure to use the funds, property, or other resources of an elder or vulnerable adult to their benefit or according to their desires; or withholding an elder or vulnerable adult's access to money;

(6) Intentional threat or infliction of harm to the pets of elders and vulnerable adults; and

(7) Self neglect resulting in impairment of health or quality of life, including the failure to attend to medical and dietary needs, make housing payments, etc; and

(8) Neglect which is the failure of a caretaker to provide for the basic needs of an elder or vulnerable adult by not supplying resources, services, or supervision necessary to maintain minimum physical and mental health and includes the inability of an elder or vulnerable adult to supply such basic needs for him/herself. Neglect is also interfering with delivery of necessary services and resources, failing to report abuse or neglect of an elder or vulnerable adult by any person, and failing to provide services or resources essential to the elder's or vulnerable adult's practice of his/her customs, traditions, or religion.

(b) "**Caretaker**" means:

(1) A person who is required by tribal law and custom to provide services or resources to an elder or vulnerable adult, including a guardian ad litem;

(2) A person who has voluntarily undertaken to provide care or resources to an elder or vulnerable adult;

(3) An institution or agency which voluntarily provides or is required by tribal law and custom and/or state law and/or federal law, to provide services or resources to an elder or vulnerable adult, including the duty to follow-up on placements, and any such institution or agency which receives anything of value in return for providing services or resources; or

(4) An employee of any institution or agency specified in Section DMR.4.2.010(b)(3) of this ordinance.

(c) "**Elder**" means a person subject to the jurisdiction of the Tribe who is at least 62 years of age.

(d) "**Vulnerable Adult**" means any person, aged 18 or over, who is in need of community services due to illness or intellectual or physical disability; and who is unable to take care of him/herself or unable to protect him/herself against significant harm or exploitation.

(e) "**Emergency**" means a situation in which an elder or vulnerable adult is immediately at risk of death or injury and is unable to consent to services which would remove the risk.

(f) "**Family**" means a group of people affiliated by tribal law and custom.

(g) "**Good Faith**" means an honest belief or purpose and the lack of intent to defraud.

(h) "**Incapacity**" means the current functional inability of a person to sufficiently understand, make, and communicate responsible decisions about him/herself as a result of mental illness, mental deficiency, physical illness or disability, or chronic use of drugs or alcohol, and to understand the consequences of any such decision. Incapacity may vary in degree and duration and shall not be determined solely on the basis of age.

(i) "**Least Restrictive Alternative**" means an approach which allows an elder or vulnerable adult independence and freedom from intrusion consistent with the needs of the elder or vulnerable adult by requiring that the least drastic method of intervention be used when intervention is necessary to protect the elder or vulnerable adult from harm.

(j) "**Protective Placement**" means the placement of an elder or vulnerable adult in a hospital, nursing home, residential care facility, or transfer of the elder or vulnerable adult from one such institution to another with their consent or appropriate legal authority.

(k) "**Protective Services**" means the services provided to an elder or vulnerable adult with their consent or with appropriate legal authority and include, but are not limited to: social case work, psychiatric and health evaluation, home care, day care, legal assistance, social services, health care, case management, guardianship and other services consistent with this ordinance. It does not include protective placement.

(l) "**Retaliation**" means threatening a reporter of abuse of an elder or vulnerable adult or the reporter's family in any way; causing bodily harm to the reporter or reporter's family; causing the reporter or any of the reporter's family to be terminated, suspended from employment or reprimanded by an employer, or damaging the reporter's or the reporter's family's real or personal property in any way.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.2.010 was formerly codified as VII LCOTCL §4.201

Subchapter DMR.4.3 Reporting and Investigations



DMR.4.3.010 Duty to Report Abuse or Neglect of an Elder DMR.4.3-1
 DMR.4.3.020 Immunity for Reporting DMR.4.3-2
 DMR.4.3.030 Failure to Report; Civil Penalty; Damages; Criminal Liability DMR.4.3-2
 DMR.4.3.040 Bad Faith Report; Civil Penalty; Damages; Criminal Liability DMR.4.3-2
 DMR.4.3.050 Investigation..... DMR.4.3-2
 DMR.4.3.060 Sanctions Related to the Investigation and Retaliation..... DMR.4.3-4

DMR.4.3.010 Duty to Report Abuse or Neglect of an Elder

Suspected abuse or neglect of an elder or vulnerable adult shall be reported to Lac Courte Oreilles Elder Services (unless immediate intervention is required to protect that person's life, which should be reported to law enforcement immediately) by:

- (a) The family or caretaker of the elder or vulnerable adult;
- (b) Any tribal employee;
- (c) Any tribal official;
- (d) Any employee of a tribally-owned business, even if not managed by the Tribe;
- (e) Any medical or osteopathic doctor, coroner or medical examiner, chiropractor, podiatrist, dentist, religious practitioner, nurse, health aide, human services worker, elders' service provider, nursing home provider, or any other health and elder human service provider, or its employees who deliver services to tribal elders and vulnerable adults;
- (f) Any person or agency or employee of such agency with a fiduciary duty to the elder or vulnerable adult such as a lawyer, accountant, financial institution, or property manager;
- (g) Any person who has good reason to suspect that an elder or vulnerable adult has been or is being abused or neglected.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.3.010 was formerly codified as VII LCOTCL §4.301

DMR.4.3.020 Immunity for Reporting

A person who in good faith reports suspected abuse or neglect of an elder or vulnerable adult is immune from any civil or criminal suit based on that person's report.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.3.020 was formerly codified as VII LCOTCL §4.302

DMR.4.3.030 Failure to Report; Civil Penalty; Damages; Criminal Liability

Any person who is required by this ordinance to report suspected abuse of an elder or vulnerable adult and fails to do so is subject to a civil penalty of up to \$1,000. The tribal court shall assess the penalty only after petition, notice, an opportunity for hearing, and a determination that the person had a mandated duty to report, had good reason to suspect abuse of an elder or vulnerable adult or neglect, and failed to report the abuse as required by this ordinance. Further, the person failing to report is subject to any civil suit brought by or on behalf of the elder or vulnerable adult for damages suffered as a result of the failure to report and to any penalties set out in tribal, state, and/or federal law.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.3.030 was formerly codified as VII LCOTCL §4.303

DMR.4.3.040 Bad Faith Report; Civil Penalty; Damages; Criminal Liability

Any person who makes a report of suspected abuse of an elder or vulnerable adult knowing it to be false is subject to a civil penalty of up to \$1,000. The tribal court shall assess the penalty only after petition, notice, and opportunity for hearing, and a determination that the reporter made the report knowing it to be false. Further, the reporter is subject to any civil suit brought by or on behalf of the person(s) named as suspected abusers in the false report for damages suffered as a result of the false report and to any criminal penalties set out in tribal, state, and/or federal law.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.3.040 was formerly codified as VII LCOTCL §4.304

DMR.4.3.050 Investigation

(a) When Elder Protective Services ("EPS") receives a report of abuse or neglect perpetrated against elders or vulnerable adults, an investigation will be initiated as required in Section DMR.4.3.050(b), below.

(b) Elder Protective Services will conduct an investigation and prepare a report within three days. The written report of the investigation shall include the information set out in

Section DMR.4.3.050(c), below as well as the results of interviews, observations and assessments and other fact finding. The investigator shall conduct in-person interviews with the elder or vulnerable adult, the family and caretaker, persons suspected of having committed the acts complained of, employees of agencies or institutions with knowledge of the circumstances of the elder or vulnerable adult, and any other person the investigator believes has pertinent information. The existence and contents of medical records and other reports of abuse and neglect shall be ascertained, after the elder or vulnerable adult executes a release of information. The investigator personally shall assess the living conditions of the elder or vulnerable adult, including sleeping quarters.

(c) The report must be in writing and shall contain:

(1) The name, address or location, and telephone number of the elder or vulnerable adult;

(2) Name, address or location, telephone number of the person(s) or agency suspected of abusing or neglecting the elder or vulnerable adult;

(3) The nature and degree of incapacity of the elder or vulnerable adult;

(4) The name, address or location, telephone number of witnesses;

(5) The name, address or location, telephone number of the caretaker of the elder or vulnerable adult;

(6) A description of the acts which are complained of as abusive or neglectful; and

(7) Any other information that the reporter believes might be helpful in establishing abuse or neglect.

(8) The report must abide by HIPPA regulations and protect the privacy of the victim.

(d) The completed investigation report shall be filed with Elder Protective Services within seven to ten days and remain on file and not be destroyed for a period of ten years, even if it is determined that there is insufficient evidence to pursue any legal action. However, if the investigating agency determines that the allegations of abuse were made in bad faith, it shall be destroyed immediately after the investigation is completed and if the evidence is insufficient to show abuse or neglect.

(e) Completed investigation reports that substantiated elder or vulnerable adult abuse shall be forwarded to the Legal Department for review and prosecution.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.3.050 was formerly codified as VII LCOTCL §4.305

DMR.4.3.060 Sanctions Related to the Investigation and Retaliation

(a) No person shall interfere intentionally with a lawful investigation of suspected elder or vulnerable adult abuse.

(b) No person shall retaliate by any means against any person who has made a good faith report of suspected abuse or who cooperates with an investigation of suspected abuse.

(c) Any person who violates subsections (1) or (2) of this section shall be enjoined from such activity and shall be subject to a civil penalty of up to \$500 per occurrence and may result in the loss of tribal privileges. If a tribal employee violates subsections (1) or (2) of this section, he/she shall be subject to appropriate disciplinary action as allowed by the Tribe's personnel policies and procedures. The penalty shall be assessed by the Tribal Court only after petition, notice, the opportunity to be heard, and a determination that either interference or retaliation as set out in this section occurred.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.3.060 was formerly codified as VII LCOTCL §4.306

**Subchapter DMR.4.4
Elder Protective Services and Placement**



DMR.4.4.010 Elder Protective Services and Elder Protective Placement; Other Services; Evaluation Procedures; Duty to Pay DMR.4.4-1

DMR.4.4.010 Elder Protective Services and Elder Protective Placement; Other Services; Evaluation Procedures; Duty to Pay

(a) Protective services or protective placement are provided either on a voluntary or involuntary basis. Such services or placement may be provided on a voluntary basis by LCO Elder Protective Services or Adult Protective Services of Sawyer County when requested by any abused or neglected elder or vulnerable adult and the person is found to be in need of such services or placement. Such services or placement may be provided on an involuntary basis by LCO Elder Protective Services or Adult Protective Services, if mandated by the circumstances leading to charges of abuse. Such services or placement shall be provided on an involuntary basis only if the Tribal Court determines they are necessary. If an elder or vulnerable adult is placed in an involuntary protective placement, a petition must be filed in Tribal Court and that petition must be heard by the Court within ten (10) days. Such services or placement may be provided on an emergency basis, or, if necessary, on a permanent basis through a guardian appointed pursuant to tribal law, and shall be provided in a manner least restrictive to the liberty and rights of the elder or vulnerable adult consistent with their welfare and needs. Based on the Tribal Court's determination of the degree of incapacity, if any, as well as whether elder or vulnerable adult abuse or neglect has occurred, LCO Elder Protective Services will develop an individual plan for the delivery of protection services.

(b) Voluntary protective services or protective placement are provided subject to available appropriations and resources and only as determined necessary by LCO Elder Protective Services. If the consent of the elder or vulnerable adult to such services or placement is withdrawn, they shall cease. Such protective services or protective placement shall be provided for a period of no more than 30 days at a time. At the end of each period, LCO Elder Protective Services shall reassess the needs of the elder or vulnerable adult before agreeing to continue providing services and placement. Voluntary placement shall not be continued without a court order permitting continued voluntary placement after the elder or vulnerable adult has been in such placement for 45 days.

(c) Involuntary protective services or protective placement shall be provided to any elder or vulnerable adult who is incapacitated as a result of abuse or neglect but only upon Tribal Court order as required by this ordinance.

(d) Services as determined necessary by LCO Elder Protective Services may be delivered to the family or caretaker of the elder or vulnerable adult in order to protect the elder or vulnerable adult.

(e) Lac Courte Oreilles Elder Protective Services, in consultation with the Lac Courte Oreilles Community Health Center, will establish a process for conducting a comprehensive physical, mental and social assessment of an elder or vulnerable adult when a petition for a protection order has been filed.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.4.010 was formerly codified as VII LCOTCL §4.401

**Subchapter DMR.4.5
Emergency Situations**



DMR.4.5.010 Emergency DMR.4.5-1

DMR.4.5.010 Emergency

(a) The Tribal Court shall issue an emergency protection order authorizing protective services or protective placement on an emergency basis upon petition supported by clear and convincing evidence that an elder or vulnerable adult:

- (1) Is at risk of immediate physical harm;
- (2) Is incapacitated and cannot consent to protective services;
- (3) Has no one who is authorized by law or court order to give consent on an emergency basis; and an emergency exists.

(b) The emergency protection order shall:

- (1) Set out the specific emergency services to be provided to the elder or vulnerable adult to remove the conditions creating the emergency;
- (2) Provide only those services which will remove the emergency;
- (3) Allow protective placement only if the evidence shows that it is necessary;
- (4) Designate LCO Elder Protective Services as the entity required to implement the order; and
- (5) Be issued for a maximum of 72 hours and may be renewed only once for an additional 72 hours provided the evidence show that the emergency is continuing.

(c) The Tribal Court may authorize forcible entry by law enforcement to enforce the emergency protection order after it has been shown that attempts to gain voluntary access to the elder have failed. A valid warrant must be issued in this instance.

(d) The petition for an emergency protection order shall contain the name, address or location and interest of the petitioner; the name, address or location and condition of the elder or vulnerable adult; the nature of the emergency; the nature of the incapacity of the elder or vulnerable adult; the proposed protective services, and where applicable,

protective placement; the attempts, if any, to secure the consent of the elder or vulnerable adult to services; and any other facts the petitioner believes will assist the court.

(e) The Tribal Court shall hold a hearing on a petition to provide protective services or placement to an elder within 24 hours after an emergency protection order is issued.

(f) An emergency protection order can be set aside by the Tribal Court upon a petition of any party showing good cause.

(g) If there is good cause to believe that an emergency exists and that an elder or vulnerable adult is at risk of immediate and irreparable physical harm, the LCO Elder Protective Services investigator or law enforcement shall immediately protect the elder or vulnerable adult, including, where necessary, transporting the elder or vulnerable adult for medical treatment or to an appropriate facility. Immediately after the elder or other vulnerable adult is protected, a petition for an emergency protection order shall be filed and the procedures set out in this section will be followed.

(h) Any person who acts in good faith pursuant to this section is immune from any civil or criminal suit based on that person's actions.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.5.010 was formerly codified as VII LCOTCL §4.501

**Subchapter DMR.4.6
Rights and Privileges**



DMR.4.6.010 Rights of Elders, Their Families and Caretakers DMR.4.6-1

DMR.4.6.010 Rights of Elders, Their Families and Caretakers

(a) An elder or vulnerable adult may refuse to accept protection services, even if there is good cause to believe that the elder or vulnerable adult has been or is being abused, provided that s/he is able to care for him/herself, has the capacity to understand the nature of the services offered and it is determined that the abuse has stopped.

(b) An investigator may be refused entry into the home of the elder or vulnerable adult by the elder or vulnerable adult, their family or caretaker but the investigator will inform them of the right to seek a warrant before seeking entry.

(c) The elder or vulnerable adult, their family or caretaker have the right to attend any proceeding pertaining to the determination of the capacity of the elder or vulnerable adult and the elder or vulnerable adult shall be present at all proceedings unless the Tribal Court determines the health of the elder or vulnerable adult would be at risk at such a proceeding.

(d) The elder or vulnerable adult, their family and caretaker have the right to be represented by counsel at all proceedings.

(e) In any proceeding involving an elder or vulnerable adult, all interested parties, including family and caretakers, may petition the Tribal Court to obtain party status in the proceeding.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.6.010 was formerly codified as VII LCOTCL §4.601

**Subchapter DMR.4.7
Procedures**



DMR.4.7.010 Procedures for Determining Incapacity, Abuse, Neglect or Self Neglect DMR.4.7-1

DMR.4.7.020 Confidentiality of Reporter, Records, Hearings; Penalty for Not Complying with Confidentiality DMR.4.7-1

DMR.4.7.030 Elder Protection Order Time Limits DMR.4.7-2

DMR.4.7.040 Petition Hearing DMR.4.7-3

DMR.4.7.050 Regulations and Criteria Required to Comply with This Ordinance DMR.4.7-3

DMR.4.7.010 Procedures for Determining Incapacity, Abuse, Neglect or Self Neglect

The Tribal Court shall determine whether an elder or vulnerable adult is incapacitated and the degree of incapacity, and, where necessary, whether abuse or neglect has occurred. The determination shall be made only after petition, notice, hearing, and proof that is beyond a reasonable doubt.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.7.010 was formerly codified as VII LCOTCL §4.701

DMR.4.7.020 Confidentiality of Reporter, Records, Hearings; Penalty for Not Complying with Confidentiality

(a) The name of the person who reports abuse or neglect as required by this ordinance is confidential and shall not be released to any person unless the reporter consents to the release or the release is ordered by the Tribal Court. The Tribal Court may release the reporter's name only after notice to the reporter is given, a closed evidentiary hearing is held, and the need to protect the elder or vulnerable adult is found to be greater than the reporter's right to confidentiality. The reporter's name shall be released only to the extent determined necessary to protect the elder or vulnerable adult.

(b) Records of an investigation of abuse against an elder or vulnerable adult or of a Tribal Court hearing regarding abuse shall remain confidential, unless production of such material is compelled by a court with proper jurisdiction. Such records shall be open only to employees of LCO Elder Protective Services, law enforcement officers, Tribal Court officials, coroner or medical examiner who has reason to believe that an elder or vulnerable adult died as a result of abuse or neglect, and any other person who the Tribal Court determines has reasonable cause to have access to such record.

(c) A proceeding held pursuant to this ordinance shall be closed and confidential. Persons who may attend are those who have been made party to the proceeding. These may include, but are not limited to, the elder or vulnerable adult, their family or caretaker, the person or representative of an institution or program accused of abuse, the representative of LCO Elder Protective Services, necessary Tribal Court officials and attorneys to the parties. Other persons may appear only to testify. No one attending or testifying at such a proceeding shall reveal information about the proceeding unless ordered to do so by Tribal Court order.

(d) Any person who violates any portion of this section shall be subject to a civil penalty of up to \$1,000 per occurrence and, if a tribal employee, to appropriate disciplinary actions as allowed by the Tribe's personnel policies and procedures. The penalty shall be assessed by the Tribal Court after petition, notice, opportunity to be heard, and a determination that a violation has occurred.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.7.020 was formerly codified as VII LCOTCL §4.702

DMR.4.7.030 Elder Protection Order Time Limits

(a) If the Tribal Court determines that an elder or vulnerable adult is incapacitated and abused or neglected, the Tribal Court shall issue a protection order which provides appropriate protection for the elder or vulnerable adult. Such protection may include, but is not limited, to the following:

- (1) Removing the elder or vulnerable adult from the place where the abuse or neglect has taken place or is taking place for no longer than 90 days;
- (2) Removing the person who has abused or neglected an elder or vulnerable adult from the elder's home;
- (3) Restraining the person who has abused or neglected an elder or vulnerable adult from continuing such acts;
- (4) Requiring the family or caretaker or any other person with a fiduciary duty to the elder or vulnerable adult to account for their funds and property;
- (5) Requiring any person who has abused or neglected an elder or vulnerable adult to pay restitution to the elder for damages resulting from that person's wrongdoing;
- (6) Appointing a representative or guardian ad litem for the elder or vulnerable adult;
- (7) Recommending that a representative payee be named; and

(8) Ordering Lac Courte Oreilles Elder Protective Services to prepare a plan for and deliver protection services which provide the least restrictive alternatives for services, care, treatment, or placement consistent with the needs of the elder or vulnerable adult.

(b) A protection order shall be issued within 10 days after the petition is served on all parties, except for an emergency protection order.

(c) An elder or vulnerable adult protection order shall remain in effect for a period not to exceed three years.

(d) The order may be extended as many times as necessary to protect the elder or vulnerable adult, but only after a petition is filed by the party seeking an extension and notice, opportunity for hearing, and a determination based on proof beyond a reasonable doubt that such an extension is necessary to protect the elder or vulnerable adult. Each extension shall be for a period not to exceed one year.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.7.030 was formerly codified as VII LCOTCL §4.703

DMR.4.7.040 Petition Hearing

A hearing on a petition authorized or required by this ordinance shall be conducted with the purpose of protecting the elder or vulnerable adult only where necessary and only to the extent shown by the facts and using the least restrictive alternatives. All rights set out specifically in this ordinance shall be enforced strictly during proceedings. No hearing shall be held unless notice has been given to the elder or vulnerable adult and other interested parties, including their family and caretaker. The elder or vulnerable adult and all other interested parties shall have the right and opportunity to be heard fully and to present evidence. The Tribal Court shall issue a written statement of its findings in support of any order allowed by this ordinance.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.7.040 was formerly codified as VII LCOTCL §4.704

DMR.4.7.050 Regulations and Criteria Required to Comply with This Ordinance

Lac Courte Oreilles Elder Services shall adopt and issue regulations establishing criteria and procedures which comply with the policy and requirements of this ordinance.

(Res. No. 15-86)

Prior Codifications

* §DMR.4.7.050 was formerly codified as VII LCOTCL §4.705

Chapter DMR.5
Aging Administration Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians



DMR.5.1 Introduction DMR.5.1-1
DMR.5.2 General Definitions DMR.5.2-1
DMR.5.3 General DMR.5.3-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians relating to the delivery of elder services which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, §§ 1(l) and (m) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "organize, charter and regulate any association or group, including a housing authority, for the purpose of providing social or economic benefits to the members of the Band or residents of the reservation" Article V, § 1 (l); and "delegate to subordinate boards, officers, committees or cooperative associations which are open to all members of the Band any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated powers" Article V, § 1 (m). This ordinance promotes the well-being of older individuals by providing services and programs designed to help them live independently in their homes and communities. This ordinance also empowers the Tribal government to receive funds from the Federal and State governments for supportive services for individuals over the age of 55.

Subchapter DMR.5.1 Introduction



DMR.5.1.010 Title DMR.5.1-1
 DMR.5.1.020 Authority DMR.5.1-1
 DMR.5.1.030 Purpose DMR.5.1-2
 DMR.5.1.040 Office DMR.5.1-2
 DMR.5.1.050 Territorial Applicability DMR.5.1-2
 DMR.5.1.060 Effective Date DMR.5.1-2
 DMR.5.1.070 Interpretation..... DMR.5.1-2
 DMR.5.1.080 Severability and Non-Liability DMR.5.1-3
 DMR.5.1.090 Repeal of Inconsistent Tribal Ordinances DMR.5.1-3

DMR.5.1.010 Title

This ordinance shall be known as the Administration on Aging Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 15-108)

Prior Codifications

* §DMR.5.1.010 was formerly codified as VII LCOTCL §5.101

DMR.5.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians relating to the delivery of elder services which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, §§ 1(l) and (m) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "organize, charter and regulate any association or group, including a housing authority, for the purpose of providing social or economic benefits to the members of the Band or residents of the reservation" Article V, § 1 (l); and "delegate to subordinate boards, officers, committees or cooperative associations which are open to all members of the Band any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated powers" Article V, § 1 (m).

(Res. No. 15-108)

Prior Codifications

* §DMR.5.1.020 was formerly codified as VII LCOTCL §5.102

DMR.5.1.030 Purpose

The purpose of this ordinance is to promote the well-being of older individuals by providing services and programs designed to help them live independently in their homes and communities. This ordinance also empowers the Tribal government to receive funds from the Federal and State governments for supportive services for individuals over the age of 60.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.030 was formerly codified as VII LCOTCL §5.103

DMR.5.1.040 Office

The principle office of the Elders Advisory Council on Aging shall be on the Lac Courte Oreilles Indian Reservation. The official address of the Elders Advisory Council on Aging is 13994 W Trepania Road, Hayward, WI 54843.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.040 was formerly codified as VII LCOTCL §5.104

DMR.5.1.050 Territorial Applicability

This ordinance shall govern the delivery of elderly services pursuant to the provisions of this ordinance within the area of operation which shall entail those lands located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.050 was formerly codified as VII LCOTCL §5.105

DMR.5.1.060 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.060 was formerly codified as VII LCOTCL §5.106

DMR.5.1.070 Interpretation

The provisions of this ordinance:

- (a) Shall be interpreted and applied as minimum requirements applicable to the determination of Tribal citizenship subject to this ordinance;
- (b) Shall be liberally construed in favor of the Tribe;
- (c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.070 was formerly codified as VII LCOTCL §5.107

DMR.5.1.080 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.080 was formerly codified as VII LCOTCL §5.108

DMR.5.1.090 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 15-108)

Prior Codifications

- * §DMR.5.1.090 was formerly codified as VII LCOTCL §5.109

**Subchapter DMR.5.2
General Definitions**



DMR.5.2.010 General Definitions..... DMR.5.2-1

DMR.5.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) "Aging Director" or "Director" means the individual employed by the Tribal Governing Board to manage the affairs of the Aging Unit as provided for in this ordinance and other relevant documents.

(b) "Aging Unit" means the means the Lac Courte Oreilles Aging Unit which is the entity that has been delegated the responsibility for carrying out the intent of this ordinance, under the direction of the Aging Director.

(c) "**Area of Operation**" means all areas within the jurisdiction of the Lac Courte Oreilles Band of Lake Superior Chippewa.

(d) "**Citizen**" means a member of the Lac Courte Oreilles Lake Superior Band of Chippewa Indians.

(e) "**Elders Advisory Council on Aging**" means the Lac Courte Oreilles Elders Advisory Council on Aging.

(f) "**Federal government**" shall be the United States of America; the Department of Health and Human Services or any other agency or instrumentality, corporate or otherwise of the United States of America.

(g) "**Immediate Family Member**" shall mean a father, mother, husband, wife, sister, brother, cohabitating partner or child(ren).

(h) "**Representative**" means a tribal Citizen (member) elected by the elders residing within the Aging Unit area of operation to the Elders Advisory Council on Aging.

(i) "**Reservation**" or "**Reservation Lands**" means those lands located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(j) **"State government"** shall be the State of Wisconsin; the Department of Health Services or any other agency or instrumentality, corporate or otherwise of the State of Wisconsin.

(k) **"Tribal Attorney(s)"** means the tribal attorney(s) employed by the Lac Courte Oreilles Legal Department, whom are in charge of and responsible for legal issues relating to elder services.

(l) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 15-108)

Prior Codifications

* §DMR.5.2.010 was formerly codified as VII LCOTCL §5.201

**Subchapter DMR.5.3
General**



DMR.5.3.010 Aging Unit..... DMR.5.3-1
 DMR.5.3.020 Tribal Governing Board Liaison DMR.5.3-2
 DMR.5.3.030 Elders Advisory Council on Aging DMR.5.3-3

DMR.5.3.010 Aging Unit

The Tribal Governing Board hereby establishes and empowers the Lac Courte Oreilles Aging Unit to carry out the intent of this ordinance as further defined herein:

(a) The Tribal Governing Board shall employ an Aging Director who will be responsible for effectuating elder services within the area of operation and the duties as defined in the Director's job description. The Executive Director shall be supervised by the Tribal Governing Board.

(b) The Aging Unit, acting through its Aging Director, shall have the following powers which it may exercise consistent with the purposes for which it has been established:

(1) To undertake and carry out studies and analyses of elders needs, to prepare tribal aging unit plans, to execute the same, and to operate elder programs;

(2) To implement the directive of the Tribal Governing Board pertaining to recommendations of the Elders Advisory Council on Aging regarding the service preferences of participants;

(3) To implement the directive of the Tribal Governing Board pertaining to recommendations of the Elders Advisory Council on Aging regarding days, hours, and locations of meal site operations;

(4) To implement the directive of the Tribal Governing Board pertaining to recommendations of the Elders Advisory Council on Aging regarding meal site environment furnishings with regard to disabled and handicapped participants;

(5) To implement the directive of the Tribal Governing Board pertaining to recommendations of the Elders Advisory Council on Aging regarding supportive social services to be incorporated at the Aging Unit; and

(b) To implement the directive of the Tribal Governing Board pertaining to recommendations of the Elders Advisory Council on Aging regarding the on-going development of the Aging programs;

(c) It is the purpose and intent of this ordinance to authorize the Aging Unit to secure the financial aid or cooperation of the Federal and State governments in the undertaking, maintenance or operation of elder programs within the area of operation.

(d) The Tribal Governing Board does not by the adoption of this ordinance consent to any authorization not accountable to the Tribal Governing Board.

(e) The Aging Director shall submit the following reports to the Tribal Governing Board with copies to the Elders Advisory Council on Aging;

(1) Monthly Report showing:

(A) Summary of the prior month's activities;

(B) Financial condition of the Aging Unit;

(C) Condition of the elderly centers;

(D) Any significant problems and accomplishments of the Aging Unit;

(E) Plans for the future;

(F) Such other information as the Aging Director, the Elders Advisory Council on Aging, or the Tribal Governing Board deems pertinent.

(2) Annual Report showing;

(A) Summary of the above concerns addressed in the monthly report;

(B) Long-term plans and goals for the Aging Unit.

(f) The tribal aging unit plan and related budget for elder services must be approved by the Tribal Governing Board as well as any other operating budgets of the Aging Unit.

(Res. No. 15-108)

Prior Codifications

* §DMR.5.3.010 was formerly codified as VII LCOTCL §5.301

DMR.5.3.020 Tribal Governing Board Liaison

The Tribal Governing Board, by formal action, shall appoint a Liaison(s) which shall be appointed to facilitate communication and coordination between the Tribal Governing

Board and the Elders Advisory Council on Aging. The Tribal Governing Board Liaison(s) shall not be considered a member of the Elders Advisory Council on Aging.

(Res. No. 15-108)

Prior Codifications

* §DMR.5.3.020 was formerly codified as VII LCOTCL §5.302

DMR.5.3.030 Elders Advisory Council on Aging

The Elders Advisory Council on Aging is hereby created to act in an advisory capacity to the Tribal Governing Board and the Aging Director and shall have those powers as stated in this section:

(a) Official Powers and Duties. The Elders Advisory Council on Aging shall advise the Aging Director on all matters relating to the delivery of services within the program area of operation and offer specific recommendations to the Aging Unit. Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby establishes a public body known as the Lac Courte Oreilles Elders Advisory Council on Aging (hereinafter referred to as the Elders Advisory Council on Aging), and pursuant to this ordinance hereby establishes the following purposes, powers and duties of the Elders Advisory Council on Aging:

(1) To advise the Tribal Governing Board and Aging Director on elder services and projects pertaining to the needs of elder citizens (members) and such other persons or entities the Aging Unit may serve.

(2) To acknowledge citizens (members) elder service related needs/concerns and communicate them to the Aging Director.

(3) Assist in the creation and review and provide recommendations on policies governing the activities of the Aging Unit, and other such elder service related policies as requested by the Aging Director or the Tribal Governing Board.

(4) To review and provide information on the development of the tribal aging unit plan.

(5) To review and provide recommendations related to the budget for the delivery of elder services as well as any other operating budgets of the Aging Unit.

(6) Provide advice as directed by the Tribal Governing Board or requested by the Aging Director on matters relevant to the Aging Unit as established in Section DMR.5.3.010 of this ordinance.

(7) None of the aforementioned powers and duties may be construed or interpreted to empower representatives of the Elders Advisory Council on Aging beyond the capacity of advisory in nature as more fully defined in Section DMR.5.3.030(h), below.

(b) Primary Functions. The primary function of the Elders Advisory Council on Aging is to provide all of the stakeholders an opportunity to be active participants in the assessment of needs, development of priorities, and identification and use of resources based in accord with Tribal, Federal, and State policies as well as consideration of the program budgets. Specific functions include, but may not be limited to, the following:

- (1) Provide recommendations to the Tribal Aging Director regarding the service preferences of participants;
- (2) Provide recommendations to the Tribal Aging Director and Aging Unit regarding days, hours, and locations of meal site operations;
- (3) Provide recommendations to the Nutrition Manager or Tribal Aging Director regarding meal site environment furnishings with regard to disabled and handicapped participants;
- (4) Conduct annual on-site review of the Aging Unit utilizing the assessment tool;
- (5) Advise and provide recommendations to the Tribal Aging Director regarding supportive social services to be incorporated at the Aging Unit;
- (6) As an organized group, give support and assistance to the on-going development of the Aging programs;
- (7) Represent and speak on behalf of program participants; and
- (8) As a liaison group act as a communications clearing house between the Aging Unit programs and the Tribal community.

(c) Organization. The Elders Advisory Council on Aging shall be organized in accordance with the following guidelines:

- (1) The Elders Advisory Council on Aging shall be composed of seven (7) persons, all of whom must be citizens (members) at least 62 years of age, and living within Sawyer County. In no case shall a sitting Tribal Governing Board member, or an employee of the Aging Unit be appointed to the Elders Advisory Council on Aging. No individual representative of the Elders Advisory Council on Aging, regardless of position, acting alone and without the approval of the Elders Advisory Council on Aging is empowered or authorized to take any action or make any public statement regarding the Aging Unit or Elders Advisory Council on Aging's positions on any matter.
- (2) Representatives to the Elders Advisory Council on Aging shall be elected by the elders residing within the Aging Unit area of operation to serve a 3-year term with the exception of the first election when two (2) persons will be elected for a 1-year term,

two (2) persons elected for a 2-year term and three (3) persons for a 3-year term. Elections will be held annually to fill vacancies. Persons elected to less than a 3-year term at the first election, only, are eligible to run for a full term when their initial term expires.

(3) A representative to the Elders Advisory Council on Aging may be removed by formal action of the Tribal Governing Board for cause.

(4) The Elders Advisory Council on Aging will fill vacancies as soon as reasonably possible.

(d) Qualifications. Applicants for election as a representative to the Elders Advisory Council on Aging must satisfy the following requirements:

(1) Be an enrolled citizen (member) of the Tribe.

(2) Be at least 62 years of age.

(3) Live within Sawyer County.

(4) Applicants must submit a one-page statement indicating why they are interested in serving on the Elders Advisory Council on Aging and must be mailed to the principle office of the Elders Advisory Council on Aging as established in Section DMR.5.1.040 of this ordinance.

(5) Shall not be employed by the Aging Unit.

(6) Shall have no financial interest in any management or contract of the Aging Unit.

(7) Shall not be primarily employed in a tribal director or management position that will impede the availability as a representative to the Elders Advisory Council on Aging.

(8) Shall not be an elected tribal official.

(9) Shall comply with an approved code of ethics.

(e) Term. Representatives to the Elders Advisory Council on Aging shall be elected by the elders residing within the Aging Unit area of operation, so long as the representative meets the qualifications established in Section DMR.5.3.030(d) above. Representatives to the Elders Advisory Council on Aging shall serve as follows:

(1) All representatives to the Elders Advisory Council on Aging will be appointed for three-year, staggered terms.

(2) Elections shall coincide with the Tribal fiscal year, unless otherwise scheduled due to reasons of death, resignation or removal.

(3) The Tribal Governing Board may remove a representative to the Elders Advisory Council on Aging by formal action if it determines that the representative has a conflict of interest, or for non-compliance, misfeasance or malfeasance.

(4) If a vacancy occurs prior to the end of someone's term, the Elders Advisory Council on Aging shall fill that position with the next highest vote recipient. The person appointed to fill a vacancy will only serve the time left in the unexpired term but may be eligible for election at the end of the appointed term.

(5) Representatives to the Elders Advisory Council on Aging are limited to a one-term limit. After a representative completes a 3-year term, members will be required to take at least one year off before running for re-election.

(6) Members of the same immediate family will not be allowed to serve on the Elders Advisory Council on Aging at the same time.

(f) Officers. Officers of the Elders Advisory Council on Aging shall be Chairman, Vice-Chairman, and Secretary. All officers shall serve one-year periods. The Elders Advisory Council on Aging shall elect its own Officers from among its representatives. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and the Vice-Chairman, the Secretary shall preside.

(g) Meetings.

(1) Quorum. Four of the representative present at a duly called meeting of the Elders Advisory Council on Aging shall constitute a quorum necessary to conduct business.

(2) Voting. All representatives are entitled to vote on all issues. At the call of the question, by any one representative on a particular issue, voting shall take place thereon. Voting by proxy representation shall be prohibited.

(3) Regularity of Meetings. The Elders Advisory Council on Aging shall meet at least every other month, with additional meetings as required at the request of the Chairman or from four (4) representatives. Notices for meetings shall be provided at least 24 hours before the meeting.

(4) Proceedings. All deliberations of the Elders Advisory Council on Aging, except in Executive Session shall be recorded. Minutes of all meetings shall be taken and copies distributed to representatives prior to the next meeting. Minutes shall be provided to the Tribal Governing Board upon adoption by the Elders Advisory Council on Aging.

(5) Executive Sessions. The Elders Advisory Council on Aging may consider the following matter(s) in executive (closed) sessions, but action taken regarding the matter(s) discussed in executive session shall be done in open session:

(A) Conferring with a tribal attorney who is rendering oral or written legal advice concerning strategy to be adopted by the Elders Advisory Council on Aging;

(B) Be advised of personnel decisions made by the Aging Director.

(6) Annual Budget / Compensation of the Elders Advisory Council on Aging.

(A) The Board shall review the annual operation budget of the Aging Unit. Once reviewed, such budget shall be recommended to the Tribal Governing Board for approval as part of the tribal annual budget adoption process.

(B) Representatives to the Elders Advisory Council on Aging are volunteers and will not be compensated for service.

(C) Training for Board members to effectively and diligently carry out the powers and duties of this ordinance shall be provided by the Tribal Governing Board as set forth in the annual operation budget of the Aging Unit including travel, training/conference registration fees, and lodging costs.

(h) Advisory Capacity. Representatives to the Elders Advisory Council on Aging shall serve in an advisory capacity to the Tribal Governing Board and the Aging Director to promote comprehensive planning and the delivery of elder services and programs.

(1) **"Advisory Capacity"** to the Tribal Governing Board means that the representatives to the Elders Advisory Council on Aging shall assist the Tribal Governing Board in understanding the program and elder service needs of elders residing within the area of operation and such other persons or entities the Aging Unit may serve. As with other Tribal Committees, Boards and Commissions, the Elders Advisory Council on Aging do not supervise the Tribal Governing Board on the delivery of elder services and program matters nor is it empowered to require that certain actions be taken or to require or demand that the Tribal Governing Board engage in or approve any particular recommended course of action. The Elders Advisory Council on Aging shall review but does not have approval authority over all required or requested reports that the Aging Director submits to the Tribal Governing Board. Such duty or authority of review does not extend to reports or portions thereof that may be deemed confidential. The Chairperson or the Secretary of the Elders Advisory Council on Aging may also be present at all meetings where the Director is expected to present or submit required or requested reports.

(2) "**Advisory Capacity**" to the Aging Director means that the Elders Advisory Council on Aging shall assist the Aging Director in understanding the program and elder service needs of elders residing within the area of operation and such other persons or entities the Aging Unit may serve and in the planning and delivery of those services and evaluation elder programs. The Elders Advisory Council on Aging is not authorized to supervise the Aging Director on the delivery of elder services and program matters or to require or demand that the Director engage in or approve any particular recommendation and shall not be involved in Aging Unit personnel matters except upon Tribal Governing Board request and then in only an advisory capacity.

(i) Restrictions.

(1) No representatives to the Elders Advisory Council on Aging shall be in a position involving a conflict of interest.

(2) No Aging Unit employee shall be a representative.

(3) No elected official of the Tribal Governing Board shall be a representative.

(4) Nothing in this ordinance authorizes the Elders Advisory Council on Aging to interfere with management, operations, and employment relations or decisions of the Aging Unit.

(5) Representatives shall be prohibited from charging or receiving actual or in-kind compensation, fees, or gifts in connection with the performance of their official duties pursuant to Section DMR.5.3.030(a), above.

(j) Personal Liability and Immunity.

(1) Representatives shall not have any personal liability for activities and obligations of the Elders Advisory Council on Aging, except as maybe imposed by law.

(2) The Elders Advisory Council on Aging, as a delegated body of the Tribal Governing Board pursuant to the Lac Court Oreilles Constitution, Article V, §§ 1 (l) and (m), is immune, as is the Tribe, from suit and legal process. Notwithstanding any provision of this ordinance, the Lac Court Oreilles Band of Lake Superior Chippewa Indians does not waive any aspect of its sovereign immunity.

(Res. No. 15-108)

Prior Codifications

* §DMR.5.3.030 was formerly codified as VII LCOTCL §5.303

**Chapter DMR.6
Paternity and Child Support Code of the Lac Courte Oreilles Band of Lake Superior Chippewa
Indians**



DMR.6.1 Introduction DMR.6.1-1
DMR.6.2 Definitions..... DMR.6.2-1
DMR.6.3 Jurisdiction and Procedure DMR.6.3-1
DMR.6.4 Referral DMR.6.4-1
DMR.6.5 Paternity DMR.6.5-1
DMR.6.6 Child Support DMR.6.6-1
DMR.6.7 Payment of Child Support..... DMR.6.7-1
DMR.6.8 Modification of Child Support..... DMR.6.8-1
DMR.6.9 Incarcerated Payers..... DMR.6.9-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to: "establish a tribal court for the purpose of enforcing tribal ordinance..." Article V, § 1(q); "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers" Article V, § 1(s); "provide for the regulation of child custody and domestic relations matters by ordinance or resolution" Article V, § 1 (t). It is the purpose of this ordinance to establish paternity and child support guidelines and procedures for the enforcement of child support and to provide for the reciprocal recognition and enforcement of child support orders and judgments. Indian children are the most vital and valued resource to the continued existence, the future, and integrity of the Lac Courte Oreilles Tribe. The establishment of these guidelines and procedures is in the best interests of all families within the jurisdiction of the Lac Courte Oreilles Tribe, and especially its children, who have a right and need to receive support from their parents.

**Subchapter DMR.6.1
Introduction**



DMR.6.1.010 Title..... DMR.6.1-1
 DMR.6.1.020 Authority..... DMR.6.1-1
 DMR.6.1.030 Purpose..... DMR.6.1-2
 DMR.6.1.040 Effective Date..... DMR.6.1-2
 DMR.6.1.050 Interpretation..... DMR.6.1-2
 DMR.6.1.060 Severability and Non-Liability..... DMR.6.1-2
 DMR.6.1.070 Repeal of Inconsistent Tribal Ordinances..... DMR.6.1-3

DMR.6.1.010 Title

This ordinance shall be known as the Paternity and Child Support Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.1.010 was formerly codified as VII LCOTCL §6.101

DMR.6.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice..." Article V, § 1(q); "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers" Article V, § 1(s); "provide for the regulation of child custody and domestic relations matters by ordinance or resolution" Article V, § 1 (t).

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.1.020 was formerly codified as VII LCOTCL §6.102

DMR.6.1.030 Purpose

It is the purpose of this ordinance to establish paternity and child support guidelines and procedures for the enforcement of child support and to provide for the reciprocal recognition and enforcement of child support orders and judgments. Further, to ensure that parentage is identified for each child within our jurisdiction. Identification of parentage is vital in order to protect the best interests of all children regarding such matters as enrollment, customs and traditions of the tribe, survivorship and inheritance, health, support, and social security benefits. The establishment of these guidelines and procedures is in the best interests of all families within the jurisdiction of the Lac Courte Oreilles Tribe, and especially its children, who have a right and need to receive support from their parents.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.1.030 was formerly codified as VII LCOTCL §6.103

DMR.6.1.040 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.1.040 was formerly codified as VII LCOTCL §6.104

DMR.6.1.050 Interpretation

(a) The provisions of this ordinance:

- (1) Shall be liberally construed in favor of the Tribe;
- (2) Shall not be deemed a limitation or repeal of any other tribal power or authority;
- (3) Does not waive the sovereign immunity of the Tribe in any respect.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.1.050 was formerly codified as VII LCOTCL §6.105

DMR.6.1.060 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies,

employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.1.060 was formerly codified as VII LCOTCL §6.106

DMR.6.1.070 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.1.070 was formerly codified as VII LCOTCL §6.107

**Subchapter DMR.6.2
Definitions**



DMR.6.2.010 General Definitions..... DMR.6.2-1

DMR.6.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"Acknowledgement of paternity"** means both the mother and the father voluntarily signed and filed a form with the state registrar.

(b) **"Adult child"** means a person who is age eighteen (18) years or older.

(c) **"Alleged father"** means any male who might be the biological father of a child, including males who are 'presumed fathers,' except where paternity has already been established by a court order or other operation of law.

(d) **"Arrears"** means court ordered support that has accrued due to non-payment.

(e) **"Best Interests of the Child"** means a set of factors the judge will consider when determining the best interest of the child which may include:

(1) The child's age.

(2) The child's wishes, depending upon their age and maturity.

(3) Maintaining consistency for the child, which includes maintaining living arrangements, school, childcare routines, access to cultural resources, access to extended family members, and extracurricular activities.

(4) Evidence of protective parenting capacity. Whether a parent is genuinely able to meet the child's physical and emotional needs, including food, shelter, clothing, medical care, education, emotional support, parental guidance. This may include investigation into the parents' physical and mental health.

(5) Impact of changing the child's existing routine.

(6) The child's physical, behavioral, and emotional safety.

(f) "**Child**" means a person who is less than eighteen (18) years old who has not been emancipated by order of a court.

(g) "**Child Support**" means the financial obligation that a parent owes toward his or her child(ren), established through a court order.

(h) "**Custodial parent**" means the person who holds primary physical placement of the child(ren) pursuant to a court order, or who exercises primary physical placement of the child(ren) on the basis of an agreement between the parents or by the absence of one parent.

(i) "**Federal poverty guidelines**" means the poverty guidelines updated periodically in the Federal Register by the U.S. department of health and human services under the authority of 42 USC 9900 (2).

(j) "**Genetic Testing**" means a DNA paternity test or other approved testing used to establish that the alleged father is the child's biological father with a probability of paternity of 98% or higher.

(k) "**Good faith payment**" means a type of payment made as a sign that you have made an effort to pay.

(l) "**Guardian**" means a legal guardian with primary physical placement of the child(ren) and standing in the position of the parent and shall have the same rights to child support as a custodial parent.

(m) "**Guardian ad Litem**" means an adult person meeting the qualifications established by the Court and appointed by the Court to represent the best interest of a child for the duration of an action before the Court. Once appointed by the Court, the Guardian ad litem shall be a full party in the court action and shall have full access to the content of all Court files in the action.

(n) "**Non-custodial parent**" means the parent who does not hold primary physical placement of the child(ren) pursuant to a court order, or who does not exercise primary physical placement of the child(ren) on the basis of an agreement between the parents or by absence of one parent.

(o) "**Parent**" means the biological or adoptive parent of the child but does not include persons whose parental rights have been terminated.

(p) "**Party**" means the parent, guardian, child, guardian ad litem, Tribe, or Tribal Child Support Program to whom certain rights accrue, including, but not limited to, with certain restrictions and limitations; the right to be notified of proceedings; to retain counsel or, in some cases, to secure Court-approved spokespersons; to appear and present evidence; to

call, examine, and cross-examine witnesses; the unlimited or restricted right to discovery and the inspection of records; and the right to request a hearing or appeal a final order.

(q) "**Paternity**" means fatherhood. '**Establish paternity**' means identifying the father of a child and legally determining parentage.

(r) "**Payee**" means the parent who is the recipient of child support as a result of a court order.

(s) "**Payer**" means the parent who incurs a legal obligation for child support as a result of a court order.

(t) "**Purge**" means a condition that must be complied with in order to avoid going to jail for contempt of court.

(u) "**Reservation**" means lands located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(v) "**Stayed**" means a ruling by the Court halting a proceeding for a certain period of time OR halting a jail sentence upon compliance with certain condition(s). The Court can subsequently lift the stay and resume proceedings OR enforce a jail sentence.

(w) "**TANF**" means the Temporary Assistance to needy Families program, whether administered by the Lac Courte Oreilles Tribe, or another Tribe or a State.

(x) "**Tribal Court**" means the duly constituted court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, as established by the Tribal Governing Board, with the judicial authority of the Tribe pursuant to Tribal Governing Board Resolution 76-10, dated May 27, 1976.

(y) "**Tribe**" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(z) "**Variable costs**" means the reasonable costs above basic support costs incurred by or on behalf of a child, including but not limited to, the cost of childcare, tuition, a child's special needs, and other activities that involve substantial costs.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.2.010 was formerly codified as VII LCOTCL §6.201

**Subchapter DMR.6.3
Jurisdiction and Procedure**



DMR.6.3.010 Jurisdiction DMR.6.3-1
 DMR.6.3.020 Procedure..... DMR.6.3-1

DMR.6.3.010 Jurisdiction

(a) The Tribal Court shall have jurisdiction over domestic relations matters where:

(1) Any party to the action, or any child who is the subject of an action, is a member of the Tribe,

(2) Any party to the action, or any child who is the subject of an action, is eligible to be a member of the Tribe, and/or

(3) Where any party, or any subject child, resides on the Reservation.

(b) In every action under this Code, the Court shall retain continuing, exclusive jurisdiction over the child to the fullest extent permitted by law.

(c) The Court has the authority to accept jurisdiction over cases transferred to it from other courts or governments where such proceedings are governed by this Code.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.3.010 was formerly codified as VII LCOTCL §6.301

DMR.6.3.020 Procedure

(a) Where specific rules of procedure are not prescribed in this chapter, the rules set forth in the "Tribal Court Code", Tribal Code of Law, Chapter TCT.2, shall apply.

(b) There is no right to a jury in any proceeding under this Code.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.3.020 was formerly codified as VII LCOTCL §6.302

**Subchapter DMR.6.4
Referral**



DMR.6.4.010 Paternity DMR.6.4-1
 DMR.6.4.020 Divorce, Legal Separation, Child Support DMR.6.4-1

DMR.6.4.010 Paternity

(a) The Court may refer a paternity case to LCO Child Support Services for assistance in determination of paternity establishment.

(b) LCO Child Support Services shall not assist is disestablishment of paternity.

(1) A party may petition the Court to disestablish paternity through their own action.

(c) LCO Child Support Services may assist parties in reaching agreements in paternity establishment without a hearing. Stipulation and Orders for genetic testing shall include all necessary language as required under Tribal Law. A Stipulation and Order signed by all parties shall be submitted to the Tribal Court for review and approval by the Tribal Judge or Magistrate. When filed with the Tribal Court the Stipulation and Order shall have the same force and effect as any order of the Court on the issues addressed therein.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.4.010 was formerly codified as VII LCOTCL §6.401

DMR.6.4.020 Divorce, Legal Separation, Child Support

(a) The Court may refer any divorce, legal separation, or child support case to LCO Child Support Services for assistance in determination of support.

(b) LCO Child Support Services may assist parties in reaching agreements in determination of support without a hearing. Stipulation and Orders for child support shall include all necessary language as required under Tribal Law. A Stipulation and Order signed by all parties shall be submitted to the Tribal Court for review and approval by the Tribal

Judge. When filed with the Tribal Court the Stipulation and Order shall have the same force and effect as any order of the Court on the issues addressed therein.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.4.020 was formerly codified as VII LCOTCL §6.402

Subchapter DMR.6.5 Paternity



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DMR.6.5.010 Actions for Paternity

(a) An action may be brought under this section to determine the paternity of a child.

(b) If the paternity of any child is not established, then the child shall be presumed to have one-half (1/2) degree of the Indian blood of the mother for the purposes of meeting the criteria for enrollment with the Lac Courte Oreilles Band.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.010 was formerly codified as VII LCOTCL §6.501

DMR.6.5.020 Who May Bring Action to Determine Paternity

(a) The following may bring an action to determine paternity of a child.

(1) The child.

(2) The child's biological mother.

(3) An alleged father of the child.

(4) The personal representative of any of the persons listed in (a)-(c) if that person is deceased.

(5) The child's guardian or custodian, whether so appointed by a court or not.

(6) The Tribe or any State agency in a situation where the child has received public benefits for which the father would be liable.

(7) Guardian ad litem of the child appointed for any purpose in which the determination of paternity is in the best interests of the child.

(8) Any person who may be liable for the support and maintenance of the child.

(9) LCO Child Support Services.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.020 was formerly codified as VII LCOTCL §6.502

DMR.6.5.030 Procedure

Except as otherwise provided in this chapter, any action filed under this section shall proceed under the "Tribal Court Code", Tribal Code of Law, Chapter TCT.2. Any such action shall be captioned, "In re the paternity of [child's initials: D.O.B.]" and shall name the mother and the alleged father as parties. When LCO Child Support Services is filing an action on behalf of either party, they shall be named as Petitioner/Co-Petitioner. The Court may, in its discretion, appoint a guardian ad litem for a child or a minor parent in any paternity proceeding.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.030 was formerly codified as VII LCOTCL §6.503

DMR.6.5.040 Relief Allowed

As part of a petition for paternity or as a response thereto, any party may ask the Court to also determine child support; liability for the costs of prenatal care, labor, and delivery; custody; and physical placement.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.040 was formerly codified as VII LCOTCL §6.504

DMR.6.5.050 Dismissal for Best Interests of Child

At any time during a proceeding under this section, the Court may refuse to order genetic or other paternity tests and may dismiss the proceeding if the determination of

paternity sought is not in the best interests of the child. This includes a child conceived as a result of forcible rape or incest or if adoption of the child is pending.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.050 was formerly codified as VII LCOTCL §6.505

DMR.6.5.060 Evidence of Paternity

- (a) The burden of proof shall be clear and convincing evidence.
- (b) Evidence relating to paternity may include, but is not limited to:
 - (1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception.
 - (2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy.
 - (3) Genetic test results under this section or otherwise conducted and the results made available to the court.
 - (4) The statistical probability of the alleged father's paternity based upon the genetic tests.
 - (5) Medical, scientific or genetic evidence relating to the alleged father's paternity of the child based on tests performed by an accredited genetic testing laboratory.
 - (6) The testimony of the father voluntarily admitting paternity of the child.
 - (7) All other evidence relevant to the issue of paternity of the child.
- (c) Evidence relating to paternity may not include:
 - (1) Testimony related to the sexual relations of the mother at any time other than the possible time of conception of the child.
 - (2) Testimony offered on behalf of the alleged father to rebut paternity, related to the sexual relations of the mother during the possible time of conception of the child with a man other than the man alleged to be the father in the action, unless the father has undergone genetic paternity tests and made the results available to the Court.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.060 was formerly codified as VII LCOTCL §6.506

DMR.6.5.070 Marital Presumption

(a) Presumption of Paternity Based on Marriage of the Parties.

(1) A person is presumed to be the parent of a child if any of the following applying:

(A) An individual and the child's biological mother are/or had been married to each other and the child was conceived or born after the marriage and before the granting of a decree of legal separation, annulment, or divorce between the parties; or

(B) An individual and the child's biological mother were married to each other after the child was born but the individual and the child's biological mother had a relationship with one another during the period of time within which the child was conceived and no other individual has been adjudicated to be the father or presumed to be the father of the child under paragraph (i), above.

(2) To overcome the presumption of a marital child, the Court shall appoint a Guardian ad Litem (GAL) to represent the best interests of the child in question.

(A) The GAL will determine whether or not it is in the best interests of the child that a person other than the spouse of the biological mother be determined to be the biological parent. Upon recommendation of the GAL genetic tests shall be conducted, the GAL will also indicate which individuals must submit to genetic testing. The Court shall give great weight to the GAL's reports and recommendations, on whether or not genetic testing should be conducted and on whom, if any, and on whether or not the marital presumption as to the parentage of the child shall be overcome.

(B) Once paternity has been adjudicated and the marital presumption has been overcome the spouse is no longer a party to the action.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.070 was formerly codified as VII LCOTCL §6.507

DMR.6.5.080 Genetic Tests

(a) Except where genetic tests have already been conducted and made available to the Court, the Court may, and upon request of a party shall, require the child, mother, any male for whom there is a probable cause to believe that he had sexual intercourse with the mother during a possible time of the child's conception, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception to submit to genetic tests. Probable cause of sexual intercourse during a possible time of conception may be established by a sufficient petition or affidavit of the child's mother or an

alleged father, filed with the Court, or after an examination under oath of a party or witness, when the Court determines such an examination is necessary.

(1) If properly noticed of a Petition for Genetic Testing, and upon failure to appear, the Court may issue a Bench Warrant for a party to remain in effect until the party has submitted themselves to genetic testing.

(b) If genetic tests show that the alleged father is not excluded and that the statistical probability of the alleged father's percentage is 98.0% or higher, the alleged father shall be rebuttably presumed to be the child's parent.

(1) Paternity may be established administratively if the results of genetic tests show a probability of paternity of 98% or higher.

(2) When a birth record is updated with a man's name because genetic tests results show a probability of paternity of 98% or higher, the administrative paternity determination is a conclusive determination of paternity and will have the effect of a court judgment.

(c) If genetic tests exclude an alleged father as the father of the child, this evidence shall be conclusive evidence of non-paternity and the Court shall dismiss any paternity action with respect to that alleged father.

(d) If genetic tests exclude any male witness from possible paternity, the tests shall be conclusive evidence of nonpaternity of the male witness. Testimony relating to sexual intercourse or possible sexual intercourse of the mother with any person excluded as a possible father, as a result of a genetic test, is inadmissible as evidence.

(e) If any party refuses to submit to a genetic test, this fact shall be disclosed to the Court. Refusal to submit to a genetic test ordered by the Court is contempt of the Court. In addition to other contempt remedies and sanctions, the Court, in appropriate circumstances, may dismiss the action.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.080 was formerly codified as VII LCOTCL §6.508

DMR.6.5.090 Adjudicated Paternity Orders

(a) The decision of the Court shall be final for the purposes of appeal.

(b) The order determining the existence or nonexistence of the parent-child relationship shall be effective for all other purposes of this Code.

(c) Name Change, Amended Birth Certificate.

(1) The Court may authorize that the child's name be changed.

(2) If the finding of paternity or the child's new name varies from the child's birth certificate, the Court shall order the LCO Child Support Services to file an amended vital records form with the state registrar, if the child was born in the state of Wisconsin.

(3) If the child was born outside of the State of Wisconsin, LCO Child Support Services will provide a certified paternity order to the parent to file with the state registrar in the state in which the child was born.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.090 was formerly codified as VII LCOTCL §6.509

DMR.6.5.100 Effect of Voluntary Acknowledgment

(a) When a father has signed and filed a voluntary acknowledgment of paternity, the mother and father shall have the right to petition the Court for a determination of child support; liability for the costs of prenatal care, labor, and delivery; custody; and physical placement as though a paternity judgment had been obtained under this section.

(1) LCO Voluntary Acknowledgment of Paternity forms will be made available at the LCO Child Support Services.

(A) LCO Voluntary Acknowledgement of Paternity form offers the option of joint or sole custody and the option of shared or primary placement.

(2) State of Wisconsin Voluntary Paternity Acknowledgement forms will be made available at the LCO Child Support Services.

(A) State of Wisconsin Voluntary Paternity Acknowledgement form gives sole custody and placement to the mother.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.5.100 was formerly codified as VII LCOTCL §6.510

DMR.6.5.110 Closed Proceedings and Records

Paternity proceedings shall be in closed session of the Court, and paternity records shall not be available for public inspections, but shall be available to the child, the child's guardian ad litem, the parents, the attorneys for the child and parents, the Indian Child Welfare Department, the LCO Child Support Services, and the Tribal Enrollment

Department. The Court may, by order, make the file, or any part thereof, available to any other person on petition.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.5.110 was formerly codified as VII LCOTCL §6.511

**Subchapter DMR.6.6
Child Support**



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 DMR.6.6.020 Health Insurance DMR.6.6-2
 DMR.6.6.030 Duration of Child Support DMR.6.6-2
 DMR.6.6.040 Liability for past Support or "Arrears" DMR.6.6-2
 DMR.6.6.050 Child Support Guidelines DMR.6.6-3
 DMR.6.6.060 Basic Child Support Calculations DMR.6.6-5
 DMR.6.6.070 Deviation from Child Support Guidelines DMR.6.6-8
 DMR.6.6.080 Non-Cash Support DMR.6.6-9

DMR.6.6.010 Actions for Child Support

(a) In a proceeding for divorce, legal separation, paternity of child, or support, the Court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for support, without regard to marital misconduct, after considering all relevant factors.

(b) Relevant factors include but are not limited to:

- (1) The financial resources and needs of the child.
- (2) The financial resources and needs of the custodial parent.
- (3) The financial resources and needs of the non-custodial parent.
- (4) The standard of living the child would have enjoyed had the marriage not been dissolved.
- (5) The physical and emotional condition of the child, and the child's educational needs.
- (6) Excessive and abnormal expenditures, destruction, concealment, or fraudulent disposition of community joint tenancy or other property held in common.
- (7) The tax consequences of such payments to each parent.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.010 was formerly codified as VII LCOTCL §6.601

DMR.6.6.020 Health Insurance

Any order for child support shall also specifically set forth each parent's responsibility for providing health insurance to the minor child and for the payment of the minor child's health expenses uncovered by insurance including if the child is eligible for Indian Health Services.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.020 was formerly codified as VII LCOTCL §6.602

DMR.6.6.030 Duration of Child Support

(a) Child support is payable until the child's 18th birthday, unless the child is, at the time of the 18th birthday, residing with the Custodial Party and pursuing a high school diploma or an equivalency degree, through an accredited school or services. If the child is, at the time of the 18th birthday, residing with the Custodial Party and pursuing a high school diploma or an equivalency degree, through an accredited school or services, the support obligation continues until the completion of the award of diploma or degree, but not beyond the child's 19th birthday.

(1) Burden of proof is on the custodial parent.

(2) Child must be so actively engaged that financial support from non-custodial parent is necessary.

(b) In the case of a mentally or physically disabled child, the Court may, after consideration of the factors set forth in Section DMR.6.6.010(b), order support to continue past the 19th birthday and to be paid to the child's custodial parent, guardian, or other person.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.030 was formerly codified as VII LCOTCL §6.603

DMR.6.6.040 Liability for past Support or "Arrears"

(a) If an arrearage for child support or fees exists at the time that a child support obligation terminates, payments shall continue in the same total amount that was due under the terms of the previous Court order or income withholding in effect at the time of the support obligation.

(b) The total amount of these payments will be applied to the arrearage until all arrearages and fees are satisfied or until further order of the Court.

(c) LCO Child Support Services will continue collection efforts for a period of ten (10) years or until such time as the youngest adult child reaches the age of thirty (30), whichever is later.

(1) Close of Collection Action: At least thirty (30) days prior to the closure date, LCO Child Support Services will:

(A) Provide to the parties a Notice that collection efforts will cease and upon which date, and

(B) Furnish to the parties a certified statement of arrears.

(2) The party who is owed arrears may still pursue collection efforts on their own for past due support.

(d) Interest on Arrears: The Court shall not charge interest on child support arrears.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.040 was formerly codified as VII LCOTCL §6.604

DMR.6.6.050 Child Support Guidelines

(a) The Child Support Guidelines incorporated herein shall apply to all child support cases that come before the Tribal Court. Child Support Guidelines shall, at a minimum:

(1) Take into consideration all gross income of both parents;

(2) Take into consideration the number of children to be supported;

(3) Be based on specific descriptive and numeric criteria and result in a computation of an amount of child support sufficient to meet the basic needs of the child(ren).

(b) Gross Income. Child support is calculated utilizing the payer's gross income. Gross income is the combined income received by the payer before any taxes, retirement or other deductions are made. Gross income is derived from the following sources:

(1) Salaries and wages,

(2) Interest and investment income,

(3) Social Security Disability (SSDI) and old-age benefits,

(4) Net proceeds from worker's compensation or other personal injury awards,

(5) Unemployment benefits,

(6) Voluntary deferred compensation (pension, profit sharing),

(7) Military and veteran benefits,

(8) Undistributed income of a corporation,

(9) All other income, whether taxable or not, including per capita and compensation earned from committee work.

(c) Gross income does not include the following:

(1) Child Support,

(2) Foster care or kinship care payments,

(3) TANF,

(4) FoodShare (SNAP),

(5) Supplemental Security Insurance (SSI) benefits.

(d) Earning Capacity/Imputed Income.

(1) If the payer's income is less than the payer's earning capacity or is unknown, the Tribal Court may impute income at an amount that represents the parent's ability to earn, based on the parent's education, training and recent work experience, earnings during previous periods, current physical and mental health, and the availability of work in or near the payer's community.

(2) If the payer is unemployed the Tribal Court may impute income based on thirty-five (35) hours per week at the federal minimum wage.

(e) Minimum Orders. Every parent, regardless of income, has an obligation to provide financial support for their child(ren). A minimum order of \$80.00 per month may be recommended to the Court in circumstances where imputed income is unavailable. Examples of these circumstances include but are not limited to:

(1) When the payer has no verifiable work history;

(2) When the payer has documented AODA issues and is actively involved in treatment;

(3) When the payer is incarcerated and either does not qualify for case suspension and/or is still receiving an income;

(4) Any other time as ordered by the Court.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.050 was formerly codified as VII LCOTCL §6.605

DMR.6.6.060 Basic Child Support Calculations

(a) Child support is a set amount based on the payer's gross income multiplied by the following percentages for the number of children in the case:

- (1) 17% for one child,
- (2) 25% for two children,
- (3) 29% for three children,
- (4) 31% for four children,
- (5) 34% for five children or more.

EXAMPLE: Payer's gross monthly income is \$3,000.00 and there is one minor child in the case. $\$3,000.00 \times 17\% = \510.00 monthly child support obligation.

(b) Serial Payer Credits. If a payer has more than one child support case, the amount of the prior child support order shall be deducted from his or her gross income and then multiplied by the percentages above.

EXAMPLE: The payer has a monthly gross income of \$3,000.00 and has a prior child support obligation of \$510.00 per month. There is one minor child in the second case. $\$3,000.00 - \$510.00 = \$2,490.00$ adjusted gross income. $\$2,490.00 \times 17\% = \423.30 monthly child support obligation for the second case.

(c) Shared Placement. Shared placement calculations must be utilized when one parent has placement of the child(ren) overnight 25% (92 days) or more per calendar year.

(1) To determine the percentage, divide the number of overnight placements by 365 days per year.

(2) Calculate each parent's monthly income available for child support. If one or both parents have a prior child support obligation, determine the parent's adjusted gross income available for this child support order pursuant to Section DMR.6.6.070(b) above.

(3) Child support is based on each parent's income multiplied by the appropriate percentage standard and then multiplied by 150% (household maintenance expenditures for each parent), then multiplied by the percentage of time the other parent has with the children and then offsetting each parent's child support obligation against each other to determine child support for the month.

EXAMPLE: Parent A monthly gross income of \$3,000.00. Parent B monthly gross income of \$2,000.00. One child in the case and spends 100 overnights ($110/365 = 27\%$) per year with Parent A. The remaining 265 overnights ($265/365 = 73\%$) are spent with Parent B.

Parent A obligation is $\$3,000.00 \times 17\% = \510.00 . $\$510.00 \times 150\% = \765.00 . $\$765.00 \times 73\% = \558.45 .

Parent B obligation is $\$2,000.00 \times 17\% = \340.00 . $\$340.00 \times 150\% = \510.00 . $\$510.00 \times 27\% = \137.70 .

Parent A's monthly obligation of \$558.45 minus Parent B's monthly obligation of \$137.70 = \$420.75.

Conclusion: Parent A pays Parent B \$420.75 per month for child support.

(d) Split placement. Split placement calculations must be used when the parents have two or more children and each parent has placement of one or more, but not all, of the minor children.

(1) Calculate each parent's monthly income available for child support. If one or both parents have a prior child support obligation, determine the parent's adjusted gross income available for this child support order pursuant to Section DMR.6.6.070(b) above.

(2) Multiply the amount of adjusted gross income for each parent by the pro-rata percentage standard for the number of children in split-placement who are placed with the other parent. The pro rata percentage standard for the number of children in split-placement who are placed with the other parent is calculated by determining the appropriate percentage standard (ordinary percentages) for the total number of children, dividing the total number of children and adding together the percentages for the children in split-placement who are placed with the other parent as follows:

(A) 2 children = 12.5% for each child (25% divided by 2),

(B) 3 children = 9.67% for each child (29% divided by 3),

(C) 4 children = 7.75% for each child (31% divided by 4),

(D) 5 children = 6.8% for each child (34% divided by 5).

EXAMPLE: Parent A monthly gross income of \$3,000.00. Parent B monthly gross income of \$2,000.00. There are three minor children. Two children reside with Parent B and one child resides with Parent A.

Parent A obligation is $\$3,000.00 \times 19.34\%$ (two children) = \$580.20. Parent B obligation is $\$2,000.00 \times 9.67\%$ (one child) = \$193.40. Parent A's monthly obligation of \$580.20 minus Parent B's monthly obligation of \$193.40 = \$386.80.

Conclusion: Parent A pays Parent B \$386.80 per month for child support for two (2) children.

(e) Low-Income Payers. Payers whose income falls below 150% of the federal poverty level are considered low income payers. Child support will be determined pursuant to the low- income payer guidelines of the Federal Poverty Index.

(f) High-Income Payers. The Tribal Court may apply reduced percentages under paragraphs (a) or (b) below if the payer is considered to earn high income:

(1) The Tribal Court may apply reduced percentages to the proportion of a payer's monthly income available for child support that is greater than or equal to \$7,000 and less than or equal to \$12,500:

- (A) 14% for one child,
- (B) 20% for two children,
- (C) 23% for three children,
- (D) 25% for four children,
- (E) 27% for five or more children.

(2) The Tribal Court may apply the following percentages to the proportion of a payer's monthly income available for child support that is greater than \$12,500:

- (A) 10% for one child,
- (B) 15% for two children,
- (C) 17% for three children,
- (D) 19% for four children,

(E) 20% for five or more children.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.060 was formerly codified as VII LCOTCL §6.606

DMR.6.6.070 Deviation from Child Support Guidelines

(a) The Tribal Court may consider a deviation from the child support guidelines after the Court finds credible evidence that use of the guidelines is unfair to the child or to either of the parties and considering the following factors:

- (1) The financial resources of the child.
- (2) The financial resources of both parents.
- (3) Maintenance received by either party.
- (4) The needs of each party in order to support himself or herself at a level equal to the federal poverty guidelines.
- (5) The needs of any person other than the child, whom either party is legally obligated to pay support.
- (6) If the parties were married, the standard of living the child would have enjoyed had the marriage continued.
- (7) The desirability of the custodial party to remain in the home as a full-time parent.
- (8) The cost of childcare if the custodial party works outside the home or the value of custodial services performed by the custodial party if the custodial party remains at home.
- (9) Extraordinary travel expenses incurred in exercising the right to periods of physical placement.
- (10) The physical, mental and emotional needs of the child.
- (11) The child's educational needs.
- (12) The tax consequences to each party.
- (13) The use of net income rather than gross income.
- (14) The best interests of the child.

(15) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.

(16) Any other factors which the Tribal Court in each case determines are relevant.

(b) Any deviation from the guidelines must be included in the written order for support.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.6.070 was formerly codified as VII LCOTCL §6.607

DMR.6.6.080 Non-Cash Support

(a) The Tribal Court may consider the use of in-kind goods or services as limited or short-term non-cash support to satisfy support obligations on a case-by-case basis when all the following criteria is met:

(1) Payer has no means or resources to make cash payments and the payer can provide evidence to the Tribal Court that all reasonable efforts are being made to obtain gainful employment;

(A) Reasonable efforts include providing proof, in writing to LCO Child Support Services, that the Payer sought work at no less than two (2) places of business every week for four (4) consecutive weeks; and

(B) Payer must complete and submit a Financial Disclosure form to LCO Child Support Services and the Tribal Court.

(2) Payer and Payee agree to the terms of the non-cash support;

(3) The non-cash support has a specific market-dollar value identified; and

(4) The Tribal Court approves of the type and terms of the non-cash support obligation.

(A) Non-cash support is not allowed as an acceptable form of payment to meet an obligation of assigned child support for tribal or state agencies that are designated as the Payee on the child support case where an assignment of rights has been entered into.

(B) The Tribal Court Order must describe the type of non-cash support including the specific dollar amount of the goods or services based on current market value.

(C) The failure of the Payer to comply with an ordered non-cash obligation will result in the accrual of arrears in the dollar amount assigned to the goods or services.

(D) The Payee is required to complete and submit, to the LCO Child Support Services, a Notice of Failure to Meet Non-Cash Obligation no later than the last day of each month if the non-cash obligation was not met. Failure by the Payee to submit the Notice within the require timeframe will result in a presumption that the non-cash support was met and the child support account will be credited per the Tribal Court Order.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.6.080 was formerly codified as VII LCOTCL §6.608

**Subchapter DMR.6.7
Payment of Child Support**



DMR.6.7.010 Payments to LCO Child Support Services DMR.6.7-1
 DMR.6.7.020 Payment Record DMR.6.7-1
 DMR.6.7.030 Change of Address..... DMR.6.7-2
 DMR.6.7.040 Failure to Pay..... DMR.6.7-2
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 DMR.6.7.060 Wage Assignment for Support DMR.6.7-3
 DMR.6.7.070 Foreign Orders..... DMR.6.7-4

DMR.6.7.010 Payments to LCO Child Support Services

(a) Upon its own motion or upon motion of either party, the Court may order at any time that child support payments be made to LCO Child Support Services for remittance to the person entitled to receive payments.

(b) For cases where child support is ordered by the Court, payments will be made to LCO Child Support Services for remittance to the person/entity ordered to receive the payments.

(1) For receiving and disbursing child support payments, including payment for arrears or fees, LCO Child Support Services will not charge a receipt and disbursement processing fee.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.7.010 was formerly codified as VII LCOTCL §6.701

DMR.6.7.020 Payment Record

(a) LCO Child Support Services shall maintain records listing the amount and type of obligation ordered, the amount of payments, the date payments are due and the date received, the balance of each account debt, and the names and addresses of the parties affected by the order.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.7.020 was formerly codified as VII LCOTCL §6.702

DMR.6.7.030 Change of Address

(a) The parties affected by the order shall inform LCO Child Support Services of any change of address within ten (10) days of such change.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.7.030 was formerly codified as VII LCOTCL §6.703

DMR.6.7.040 Failure to Pay

(a) If a person obligated to pay support fails to do so, LCO Child Support Services, or any party entitled to such support may institute an action requesting:

(1) An order for the payer to show cause why he or she should not be subject to contempt of court.

(2) A finding of Contempt of Court. See Tribal Code of Law, Chapter TCT.2, Subchapter TCT.2.14.

(A) Contempt of Court may result in incarceration.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.7.040 was formerly codified as VII LCOTCL §6.704

DMR.6.7.050 Alternatives to Contempt of Court

(a) A sanction imposed by the Court may be "stayed" or "purged" depending upon compliance with purge conditions including, but not limited to;

(1) Maintain contact with LCO Child Support Services;

(2) Provide medical documentation to LCO Child Support Services OR the Tribal Court showing a limited ability or inability to work;

(3) Complete a barriers assessment with LCO Child Support Services;

(4) Seek work at no less than two (2) places of employment each week and report efforts of doing so to LCO Child Support Services;

(5) Register with a Wisconsin Job Center, and provide proof of doing so to LCO Child Support Services;

(6) Submit a "bond" or "good faith" payment to LCO Child Support Services;

(7) A ban from the Sevenwinds Casino for gambling purposes;

(8) Any other condition the Court finds appropriate as a means to stay or purge a Contempt of Court.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.7.050 was formerly codified as VII LCOTCL §6.705

DMR.6.7.060 Wage Assignment for Support

(a) Each order for child support payments constitutes an assignment to the intended recipient of the support of all income as described in Section DMR.6.6.050(b) above, which includes commissions, earnings, salaries, wages, pension benefits, workers compensation or unemployment insurance benefits, lottery prizes that are payable in installments and other money due or to be due in the future. The assignment shall be for an amount sufficient to ensure payment under the order or stipulation and to pay any arrearages due at a periodic rate not to exceed 65% of the amount of support due under the order or stipulation so long as the addition of the amount toward arrearages does not exceed the amounts allowed to be intercepted for child support purposes pursuant to the Federal Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(b) Each individual ordered to pay child support shall, under oath and under penalty of contempt of court, at the time of the order disclose to the court all of his or her sources of income, including the names and addresses of all payers of income to him or her. Such individual shall thereafter notify the LCO Child Support Services of any change of employer or addition or loss of source of income within ten (10) days of such change.

(c) LCO Child Support Services shall prepare and send to each employer and source of income a Notice of Income Withholding Order, using the federal form as required under 45 C.F.R. § 309.110, in an amount sufficient to ensure payment as provided in subsec. (a).

(1) The individual ordered to pay child support shall pay his or her obligation directly to the LCO Child Support Services during any period of time when a wage withholding is not effectuated by an employer or other source of income.

(d) Any employer or other source of income who receives an Income Withholding Order may deduct from each payment a sum not exceeding five (5) dollars as reimbursement for costs.

(e) Should an Income Withholding Order not be in place immediately, the LCO Child Support Services must immediately issue a Notice of Income Withholding Order to the employer should the payer become delinquent equal to the support for one month.

(f) LCO Child Support Services will promptly terminate the Income Withholding Order where there is no longer a current order for child support and all arrearages have been satisfied.

(1) An Income Withholding Order may also be terminated upon Order from the Court OR in circumstances where only notice is required (such as: employee changes job).

(g) LCO Child Support Services will promptly refund any amounts which have been improperly withheld.

(h) An employer shall not discharge or otherwise discipline an employee solely as a result of a wage or salary assignment authorized by the section.

(i) Should an employer fail to withhold child support payments pursuant to the terms of the Income Withholding Order and remit said payments to LCO Child Support Services within five (5) days of the pay period, the employer shall be responsible to pay the amounts that should have been withheld.

(j) The Court shall enforce a valid Income Withholding Order made by another jurisdiction and shall not make modifications to that order except as allowed by applicable law. The Tribal Court is not required to honor any wage withholding order from a foreign jurisdiction unless said order has been submitted to LCO Child Support Services who will register, and file said order with the Court as a full faith and credit order.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.7.060 was formerly codified as VII LCOTCL §6.706

DMR.6.7.070 Foreign Orders

(a) Employee of the Tribe: LCO Child Support Services will provide collections on child support orders referred to the Tribe by a foreign jurisdiction for employees of the tribe who are not otherwise within the jurisdiction of the LCO Tribal Court. LCO Child Support Services may request full faith and credit of the order to assist with collection remedies if necessary. If the individual leaves employment with the Tribe, the case will be returned to a tribal or state agency.

(1) Objection: Employees of the Tribe who are not otherwise within the jurisdiction of the LCO Tribal Court may object to LCO Child Support Services providing collections

on their child support orders. That objection shall be timely made in writing to LCO Child Support Services.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.7.070 was formerly codified as VII LCOTCL §6.707

**Subchapter DMR.6.8
Modification of Child Support**



DMR.6.8.010 Child Support Modifications DMR.6.8-1
 DMR.6.8.020 Death of Payee/Paver DMR.6.8-1

DMR.6.8.010 Child Support Modifications

(a) A child support order may be revised upon a showing of a substantial change of circumstances. A substantial change in circumstances includes, but is not limited to, the following:

- (1) Increase or decrease of either party's income would result in a modification of at least fifty dollars (\$50) to the order;
- (2) A change in the placement of the child, as ordered by the Court;
- (3) A change in the overnight visitation of the child to ninety-two (92) overnight visits or more; and/or
- (4) A finding of physical or mental disability of the payer.

(b) LCO Child Support Services and/or the Court shall consider the length of time the change has been in effect or will be in effect.

(c) If either party is seeking a modification by LCO Child Support Services, they shall first complete and submit a Request for Review with LCO Child Support Services.

- (1) Either party may bring a Motion to the Court for Modification of child support on their own.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.8.010 was formerly codified as VII LCOTCL §6.801

DMR.6.8.020 Death of Payee/Paver

(a) Thirty (30) days following notice to LCO Child Support Services of the death of payee/payer, if no probate action has been started or located by LCO Child Support Services through research, LCO Child Support Services shall request an order vacating the custodial arrears owed and for an order immediately terminating any obligation for continued current support.

(1) Date of Death must be confirmed through written documentation.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.8.020 was formerly codified as VII LCOTCL §6.802

Subchapter DMR.6.9 Incarcerated Payers



DMR.6.9.010 Request for Review/Modification/Suspension of Child Support Due to Incarceration	DMR.6.9-1
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DMR.6.9.030 Reinstatement of Child Support upon Release	DMR.6.9-2

DMR.6.9.010 Request for Review/Modification/Suspension of Child Support Due to Incarceration

(a) Upon request of an incarcerated payer whose anticipated future period of incarceration is twelve (12) months or more, LCO Child Support Services shall evaluate his or her case(s) to determine whether a review and adjustment is appropriate.

(1) LCO Child Support Services may elect to review cases if the incarcerated payer does not make the initial request.

(2) LCO Child Support Services may elect to review cases if the period of incarceration is less than twelve (12) months.

(b) Regardless of the length of incarceration, LCO Child Support Services shall not evaluate the case for review and adjustment if any of the following statements apply:

(1) The payer is incarcerated for nonpayment of child support,

(2) The payer is incarcerated for a crime committed against any child, or

(3) The payer is incarcerated for a crime committed against a party in the child support case.

(c) An incarcerated non-custodial parent may make his or her own motion to the Court for modification of child support due to his or her incarceration.

(Res. No. 75-2020)

Prior Codifications

* §DMR.6.9.010 was formerly codified as VII LCOTCL §6.901

DMR.6.9.020 Review of Child Support

(a) If a review is conducted, the following factors shall be considered to determine whether the payer has the ability to pay during his or her period of incarceration:

- (1) Payer's assets and income during the period of incarceration,
- (2) Availability of employment during the period of incarceration,
- (3) Total length of incarceration,
- (4) Employability following incarceration,
- (5) Any other factors which the Tribal Court in each case determines are relevant.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.9.020 was formerly codified as VII LCOTCL §6.902

DMR.6.9.030 Reinstatement of Child Support upon Release

Unless otherwise ordered by the Court, LCO Child Support Services shall administratively reinstate the child support obligation for current support once sixty (60) days have lapsed from the date payer is released from his or her current incarceration.

(Res. No. 75-2020)

Prior Codifications

- * §DMR.6.9.030 was formerly codified as VII LCOTCL §6.903

**Chapter DMR.7
Foster Care Licensing Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians**



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Preamble

Indian Child Welfare Foster Parents are the main providers for children placed in their home. They are expected to have the necessary knowledge and skills required to deliver safe nurturing care in their homes, as well as an understanding of Lac Courte Oreilles values, cultural teachings, and events. They shall have patience, flexibility, confidence, self-awareness, and intelligence to develop and carry out any treatment plan for each child. They shall also have "common sense." Foster Parents need to be open to ongoing learning and growth and must be willing to work cooperatively with other members of the Indian Child Welfare Department as well as the children's medical and mental health providers, schools, or any others that are vested with the health, safety, and welfare, of Lac Courte Oreilles children.

Those who join Indian Child Welfare to become licensed foster families shall operate in accordance with Tribal law and ordinances, as well as follow guidelines under the Indian Child Welfare Act ("ICWA"). To qualify, applicants shall have some experience working with children, and may be required to complete training that is directed towards working with children with complex emotional needs. LCO Indian Child Welfare foster parents shall also pass a background check to be compliant with the Native American Children's Safety Act.

**Subchapter DMR.7.1
Introduction**



DMR.7.1.010 Title..... DMR.7.1-1
 DMR.7.1.020 Authority..... DMR.7.1-1
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DMR.7.1.010 Title.

This ordinance shall be known as the Foster Care Licensing Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 2023-118)

DMR.7.1.020 Authority.

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, §1 (t) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board "[t]o provide for the regulation of child custody and domestic relations matters by ordinances or resolution."

(Res. No. 2023-118)

DMR.7.1.030 Policy.

Indian Child Welfare Foster Parents are the main providers for children placed in their home. They are expected to have the necessary knowledge and skills required to deliver safe nurturing care in their homes, as well as an understanding of Lac Courte Oreilles values, cultural teachings, and events. They shall have patience, flexibility, confidence, self-awareness, and intelligence to develop and carry out any treatment plan for each child. They shall also have "common sense." Foster Parents need to be open to ongoing learning and growth and must be willing to work cooperatively with other members of the Indian Child Welfare Department as well as the children's medical and mental health providers, schools, or any others that are vested with the health, safety, and welfare, of Lac Courte Oreilles children.

Those who join Indian Child Welfare to become licensed foster families shall operate in accordance with Tribal law and ordinances, as well as follow guidelines under the Indian Child Welfare Act ("ICWA"). LCO Indian Child Welfare foster parents shall also pass a background check to be compliant with the Native American Children's Safety Act.

(Res. No. 2023-118)

DMR.7.1.060 Effective Date.

The provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 2023-118)

DMR.7.1.070 Interpretation.

The provisions of this ordinance:

- (a) Shall be liberally construed in favor of the Tribe; and
- (b) Shall not be deemed a limitation or repeal of any tribal power or authority.

(Res. No. 2023-118)

DMR.7.1.080 Severability and Non-Liability.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 2023-118)

DMR.7.1.090 Repeal of Inconsistent Tribal Ordinances.

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal ordinance, the provisions of this ordinance shall govern.

(Res. No. 2023-118)

**Subchapter DMR.7.2
Definitions**



DMR.7.2.010 General Definitions..... DMR.7.2-1

DMR.7.2.010 General Definitions.

Any term not defined in this Section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise.

(a) "**Applicant**" means the individual or individuals who have submitted a signed and dated application form for a foster care license to the Indian Child Welfare.

(b) "**Agency**" means the Lac Courte Oreilles Indian Child Welfare Department.

(c) "**Band Members or Member**" means a person enrolled or eligible for enrollment with the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(d) "**Child**" means a person under the age of eighteen (18).

(e) "**Extended Family Member**" means "Relative" as defined in this ordinance.

(f) "**Foster Child**" means a child who lives in a home required to be licensed under this ordinance and the Indian Child Welfare Act.

(g) "**Foster Home**" means any facility operated by a person required to be licensed under this ordinance or the Indian Child Welfare Act.

(h) "**Foster Home Types**" means one of the following:

(1) "**Respite Home**" means a home designated primarily for time-limited emergency placements, usually lasting no longer than thirty (30) days for any child.

(2) "**Group Family Foster Home**" means a home providing care for no more than ten (10) children, including the family's own children.

(3) "**Restricted Home**" means a home licensed for a specific child(ren). A restricted home may not accept children other than the specified named child(ren).

(i) "**Foster Parent**" means a person or persons who operate a facility required to be licensed under this ordinance and the Indian Child Welfare Act.

(j) "**Guardian**" means a person having the right to make major decisions affecting the child including the right to consent to marriage, to enlistment in the armed forces, to invasive surgery and to adoption, or to make recommendations as to adoption.

(k) "**Indian/Native American**" means any person who is a member of a Native American Tribe, or who is eligible for membership with an Indian Tribe.

(l) "**Indian Custodian**" means any Native American person who has legal custody of a Native American Child under Tribal Law or custom or under state law or to whom temporary physical care, custody and control has been transferred by the parent of such child

(m) "**Legal Custodian**" means the person having the legal right to the care, custody, and control of a child and the duty to provide food, clothing, shelter, routine medical care, education, and discipline for a child, under State Law or Tribal Court Order.

(n) "**License**" means a document issued by the Tribal Governing Board which authorizes the applicant/s to provide foster care.

(o) "**Licensed Capacity**" means the maximum number of foster children who can live in the foster home at any given time.

(p) "**Mandated Reporter**" is a person who, because of his or her profession, is legally required to report any suspicion of child abuse or neglect to the relevant authorities. These laws are in place to prevent children from being abused and to end any possible abuse or neglect at the earliest possible stage.

(q) "**Parent**" means any biological parent or parents of a Native American Child or any Native American Person who has lawfully adopted an Indian Child, including adoptions under Tribal Law or custom. It does not include the unwed father where paternity has not been acknowledged or established.

(r) "**Relative**" means a parent, grandparent, brother, sister, uncle, aunt, cousin, nephew, niece, stepparent, stepsister, Great Grandparent, Great Aunt, Great Uncle, Step-Aunt, or Step-Uncle.

(s) "**Reasonable and prudent parent**" means a parent who is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

(t) "**Respite Caregiver**" means a responsible adult providing temporary care for the foster children in the absence of the foster parent(s).

(u) "**Rule**" means a regulation, standard, statement or policy or general order (including amendment or repeal of any of the foregoing) of general application and having effect of law.

(v) "**Tribal Council or Council**" means the Lac Courte Oreilles Tribal Governing Board.

(w) "**Tribal Court**" means the Lac Courte Oreilles Tribal Court unless otherwise specified.

(Res. No. 2023-118)

**Subchapter DMR.7.3
Homes Not Required to be Licensed**



DMR.7.3.010 Homes Not Required to be Licensed. DMR.7.3-1

DMR.7.3.010 Homes Not Required to be Licensed.

(a) A home providing care and supervision only to children related to the family.

(b) Child care placements made by the Tribal Court into a home that shall provide care and supervision for a total of thirty (30) days or less in any twelve (12) month period and/or the parent or legal guardian has placed the child voluntarily on a temporary basis.

(c) A home providing care and supervision only for one unrelated child of sixteen (16) or seventeen (17) years of age who has been independently placed by themselves or their relative for purposes of education or work.

(Res. No. 2023-118)

Subchapter DMR.7.4 Application for License



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DMR.7.4.040 Authority of Tribal Governing Board; Exceptions.....	DMR.7.4-3

DMR.7.4.010 Forms.

The person or persons seeking a license shall submit forms approved by the Tribal Governing Board or Indian Child Welfare. The Indian Child Welfare Department shall determine eligibility once such the completed forms are received by the department.

(Res. No. 2023-118)

DMR.7.4.020 Qualifications.

(a) Personal Characteristics. Any person licensed to operate a foster home shall be a responsible, mature adult who is fit and qualified, exercises sound judgement and displays the capacity to successfully nurture foster children, does not abuse alcohol, or drugs, and does not have a pending criminal charge or a finding by a government body of civil or criminal violation of statutes, regulations, or ordinances that is substantially related to caring for children or the operation of a foster home. The applicant or licensee shall give truthful and sufficient information to enable Indian Child Welfare to verify whether, or not they meet the requirements needed to operate a Foster Home. Giving false information or withholding relevant information shall constitute grounds for denial or revocation of the license.

(b) Experience. Applicants shall have some experience working with children and may be required to complete training that is directed towards working with children with complex emotional needs.

(c) Age. No applicant may receive a license for the first time when one or both are under twenty-one (21) years of age.

(d) Health. All members of the family household shall be in good physical and mental health that shall not adversely affect the health of the children, or the quality of or care given to children placed in foster care. If at any time the physical or mental health of any caregiver or family member comes into question, and if it could possibly endanger foster children placed in the home, Indian Child Welfare or Tribal Council may request a written

statement from a qualified medical professional, certifying the condition of the person to safely continue having foster children in the home.

(e) Marital Status. Applicants may be single or married. All couples shall both fill out the application to foster. Any change in household composition, shall be reported with fourteen (14) days of the change. If a new caregiver moves in, they shall fill out an application and be subject to be medically cleared with a Physical, T.B. Test, Fingerprints, and Background Check.

(f) Residence. Applicants shall reside in Sawyer County. One of the applicants in the home shall be an enrolled tribal member, or the applicants live within Reservation Boundaries, which is important for the cultural aspect for children to maintain their connections to the Lac Courte Oreilles Tribal Community.

(Res. No. 2023-118)

DMR.7.4.030 Foster care of children requires license.

(a) Initial Foster License

(1) The laws of Wisconsin require that every foster family be licensed to show that they have met the standards in the state laws regulating foster care, as well as follow the ICWA guidelines, (Chapters 48 and 938 Stats). Most of these requirements are in the "administrative rule," DCF 56 (appendix G). In addition, each new Foster Parent shall complete six (6) hours of training before becoming licensed. (See the education and training requirements section). Shall complete thirty-six (36) to forty (40) hours of training within the first year of licensure. It is the duty of the foster parent to follow DCF 56 as well as ICWA regulations and we recommend reviewing these documents often.

(2) Indian Child Welfare licenses families for two (2) years, although there are also some licensing requirements that need to be fulfilled every year (training plan, training logs, disaster plan, and evaluations, animal vaccinations up to date, proof of house/car insurance). The foster family license specifies the number, ages, and gender of the children who may be placed for care. When changes occur in the family's living situation, licensing modifications may be necessary as indicated in DCF 56.04.

(b) Documents required before initial licensing are:

(1) Application form completed and signed by all who shall be fostering in the home.

(2) Verification of Homeowners or Rental Insurance.

(3) Verification of Auto Insurance, (minimal liability), which shall remain in force during the time of licensure.

- (4) Physical Examination of all Licensed Caregivers, with T.B. Test Results.
 - (5) Drawing of Foster Home layout with escape plan in case of emergency.
 - (6) Verification of all animal vaccinations.
 - (7) Valid Driver's license.
 - (8) Background Check.
 - (9) Fingerprints.
 - (10) Private well water test shall be performed for Bacteria, (required only for private wells).
 - (11) Documentation of Fire Safety Inspection of the home.
- (c) Documents required for Relicensing without a lapse in licensing (lapsed/expired license, need to file initial paperwork again):
- (1) Relicensing Application form, signed by all who shall be fostering in the home.
 - (2) Verification of Homeowners or Renter's Insurance.
 - (3) Verification of Auto Insurance, (minimal liability), which shall remain in force during the term of licensure.
 - (4) Physical Exam for all Licensed caregivers.
 - (5) Drawing of Foster home Layout with escape plan in case of emergency.
 - (6) Verification of animal vaccinations.
 - (7) Valid Driver's License.
 - (8) Completed training hours for the year.
 - (9) Private well water test for bacteria, (required for Private Wells only).

(Res. No. 2023-118)

DMR.7.4.040 Authority of Tribal Governing Board; Exceptions.

The Tribal Governing Board may make, or may delegate the authority to make, exceptions to any of the rules for licensing foster homes when the Tribal Governing Board is assured that granting such exceptions is not detrimental to the health, safety or welfare of

DMR.7.4.040 Authority of Tribal Governing Board; Exceptions.

children. However, no exceptions shall violate P.L. 114-165, "The Native American Children's Safety Act."

(Res. No. 2023-118)

Subchapter DMR.7.5
Investigation of Applicants



DMR.7.5.010 Investigation of Applicants..... DMR.7.5-1

DMR.7.5.010 Investigation of Applicants.

(a) Receipt of Application. Once a completed application is received, Indian Child Welfare shall investigate to determine if the applicant(s) meet all the requirements for a license.

(b) Medical Examination. For initial licensing the applicant is required to provide a physical and a tuberculosis test (forms provided) for examination by the Indian Child Welfare Department. The tuberculosis test is only required for the initial license. If a license lapses, then a new tuberculosis test is required. In the event of a positive tuberculosis test, a chest x-ray shall be required with clearance, to be considered.

(c) Home inspection. Once the applicants meet the requirements of the background check and investigation, the Indian Child Welfare Department shall visit the home within thirty (30) days to make sure it is safe for foster children. A SAFE home study shall be done. The ICW worker shall do a walkthrough of the home. A working smoke detector is required in each bedroom, at the top and bottom of a stairway, and on each floor of the home. Fire Extinguishers with a UL rating for A, B, and C burning materials shall be available in or near the kitchen and on each floor of the home, preferably by the sleeping areas. Additionally, a functioning CO2 Detector shall be on each level of the home.

(d) Current proof of animal vaccinations if there are pets in the home.

(e) Homeowners or rental insurance on residence is required.

(f) Car insurance for any vehicle that shall be used to transport foster children.

(g) Valid Driver's License.

(h) Criminal Background Check, including fingerprint-based checks of national crime information databases.

(i) Background check of foster care applicant and each "covered individual" who resides in the household or is employed at the institution in which foster care placement shall be made.

(j) Background check against any abuse registries maintained by the Tribe.

(k) Background check for child abuse and neglect registries maintained by the State in which the foster parent applicant resided in the past five (5) years to enable the Indian Child Welfare Department to check any child abuse and neglect registry maintained by that State for such information.

(l) Check any other additional requirement that the Tribe determines is necessary and permissible within the existing authority of the Indian tribe, such as the creation of voluntary agreements with State entities in order to facilitate the sharing of information related to the performance of criminal records checks.

(m) If the home is recommended for licensing, a SAFE home study and submitted to Tribal Governing Board along with the signed completed application form, Physician's Statement, and any supporting documentation. The Applicant shall then be evaluated by the Tribal Governing Board based upon the standards herein.

(n) Drug testing.

(o) To ensure the safety of the home for foster children, there shall be periodic intervals at which the home or institution shall be subject to recertification.

(Res. No. 2023-118)

Subchapter DMR.7.6 Granting of License



DMR.7.6.010 Granting of License..... DMR.7.6-1
 DMR.7.6.020 Duration of License; Renewal..... DMR.7.6-1

DMR.7.6.010 Granting of License.

Upon satisfactory completion of the investigation and all documentation being turned in, the license shall be granted to the applicant(s) by the Tribal Governing Board with the following specifications:

- (a) Level of Foster Care.
- (b) Expiration Date.
- (c) Maximum number of children to be provided care at one time.
- (d) Ages of children to be in care.
- (e) Gender of children to be in the home.

(Res. No. 2023-118)

DMR.7.6.020 Duration of License; Renewal.

(a) All licenses shall be issued for two (2) years. Within sixty (60) days of the license expiring, a reapplication form shall be completed, signed by all caregivers in the home, and submitted to the Agency. At that time, a home review shall be done.

(b) Prior to the expiration of a license, background checks and character information shall be updated and reviewed, if a renewal of license is being sought.

(Res. No. 2023-118)

**Subchapter DMR.7.7
Denial of License**



DMR.7.7.010 Denial of License..... DMR.7.7-1
 DMR.7.7.020 Right to Appeal..... DMR.7.7-1

DMR.7.7.010 Denial of License.

Reasons for denial or nonrenewal of a license may be, but are not limited to, one or more of the following:

- (a) Conviction for, or admission of, or substantial evidence of an act of assault, child battering, child abuse, child molestation, or child neglect.
- (b) Chemical dependency, unless the individual has been to and completed treatment at least one year prior to the application of a foster care license and remains free from said dependency.
- (c) Excessive chemical abuse, where it impairs the functioning of the family.
- (d) If anyone in the home has been, within the preceding twelve (12) months, in a correctional facility or a residential treatment facility for mental or emotional health which impairs the functioning of the family unit. Evaluation shall be at the judgment of Indian Child Welfare and proof of rehabilitation shall be required.
- (e) Any other reason that would have an adverse effect on the emotional or physical well-being of foster children.

(Res. No. 2023-118)

DMR.7.7.020 Right to Appeal.

Any applicant whose application is denied or not renewed may appeal to the Tribal Court pursuant to the procedures set forth in this code. Indian Child Welfare shall notify the applicant of denial by letter, which shall state the grounds for the action and inform the applicant of their right to appeal the action.

(Res. No. 2023-118)

**Subchapter DMR.7.8
Standards**



DMR.7.8.010 General Requirements..... DMR.7.8-1

DMR.7.8.020 Sleeping Arrangements..... DMR.7.8-2

DMR.7.8.030 Storage facilities..... DMR.7.8-3

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DMR.7.8.060 Discipline..... DMR.7.8-3

DMR.7.8.070 Work performed by children..... DMR.7.8-4

DMR.7.8.080 Education..... DMR.7.8-4

DMR.7.8.090 Moral, Religious, and Cultural Training..... DMR.7.8-4

DMR.7.8.100 Nutrition..... DMR.7.8-5

DMR.7.8.110 Clothing..... DMR.7.8-5

DMR.7.8.120 Medical Care..... DMR.7.8-5

DMR.7.8.130 Substitute Care..... DMR.7.8-6

DMR.7.8.010 General Requirements.

(a) The home shall be in good repair and maintained adequately for the health and safety of all occupants. It shall have enough space and furnishings to accommodate the family, plus any foster children placed in the home. The Tribal Governing Board may require inspections of the home by fire, health, sanitation, or safety officials when, in its judgement, such opinion is needed to assist the Tribal Governing Board in making a decision regarding the safety of the home for the care of foster children.

(b) All potentially dangerous items such as, but not limited to, household poisons, medications, plastic bags, matches, lighters, knives, and firearms and all other dangerous items shall be locked or stored out-of-reach from children, depending on ages and mental capacities of children in the home.

(c) All firearms shall be kept unloaded and securely locked at all times.

(d) All potentially harmful medications shall be locked at all times.

(e) All household shall have up to date vaccinations with proof from a veterinarian.

(f) No smoking of any kind is permitted in the home or a vehicle when foster children are present.

(g) The home shall have a working telephone that is accessible to children at all times.

(h) Alcoholic beverages shall be kept inaccessible to children at all times.

(i) A foster home shall have a heating system that is capable of maintaining a comfortable temperature of not less than 68° F., or 20° C. in living areas. Unvented gas, oil or kerosene space heaters may not be used in a foster home. Each floor of the home shall have working fire extinguishers and Carbon Monoxide Detectors.

(Res. No. 2023-118)

DMR.7.8.020 Sleeping Arrangements.

(a) Each foster child shall be provided with a separate bed, except that two (2) boys (related) or two (2) girls (related) may share a double bed or bigger (age one (1), if developmentally on track, to twelve (12)). Each bed shall be in good condition and of a size to ensure the child's comfort. Bed sharing shall be approved by the Indian Child Welfare Department.

(b) No foster child 6 years of age or older shall share a bedroom with a child of the opposite sex.

(c) Foster children are not permitted to sleep in any building, apartment, or any other structure that is separate from the family home. This does not include recreational camping, or any spiritual practices that the children are participating in as approved by the biological parent(s).

(d) Foster children are not permitted to sleep in an unfinished attic or unfinished basement, or any other room normally used for purposes other than sleeping.

(e) A responsible adult shall sleep within call of the child during the night. An exception may be granted only if the child is at least sixteen (16) years of age and the Indian Child Welfare Department grants approval.

(f) Infant child (birth to twelve (12) months) shall sleep in a crib, bassinette, or playpen. No co-sleeping shall be allowed for infants under one (1) year of age.

(g) Sleep environment shall follow current American Academy of Pediatrics guidelines for "Safe Sleep."

(h) Foster parents are required to complete a training regarding Shaken Baby Syndrome.

(i) Foster parents are required to complete training regarding "Safe Sleep" .

(Res. No. 2023-118)

DMR.7.8.030 Storage facilities.

(a) Foster parents shall provide sufficient drawer and closet space to accommodate each child's clothing, toys, and other belongings.

(b) The home shall have space for indoor play and access to outdoor play space. The foster parent shall provide for the safety of children in recreation and play areas.

(Res. No. 2023-118)

DMR.7.8.040 Care of Children.

Every foster child shall be treated as a member of the foster family. The foster child shall share in the privileges and responsibilities of the home as appropriate to the child's age and abilities. Activities shall foster the optimum physical, emotional, social, and mental development of the children. Activities that enhance and support the child's appreciation of their cultural heritage shall be supported and encouraged.

(Res. No. 2023-118)

DMR.7.8.050 Supervision of Children.

(a) Children under the age of ten (10) shall not be left in the home without supervision by a responsible care provider.

(b) Children ten (10) years of age or older shall receive responsible supervision appropriate to their age, maturity level, and abilities as might be provided by a reasonable and prudent parent to their own children.

(c) No foster children shall be left unsupervised overnight.

(Res. No. 2023-118)

DMR.7.8.060 Discipline.

(a) Disciplinary action by a foster parent, or any other person serving as a caretaker in the absence of the foster parent, shall be aimed at encouraging the foster child on appropriate social behavior. Disciplinary action shall be handled by the foster parent with kindness and understanding.

(b) The type of discipline imposed shall be appropriate to the child's age and understanding.

(c) Physical punishment of foster children is prohibited.

(d) No child shall be subjected to verbal abuse, profanity, derogatory remarks about the child or their family, or threats to expel the child from the home.

(e) No child shall be allowed to discipline any other child in care.

(f) No foster child may be punished by being deprived of meals, mail, or family interaction.

(g) No foster child shall be ridiculed for bed-wetting or other lapses in toilet training.

(h) No foster child may be physically restrained or locked in a room or any other enclosure.

(i) Foster parents shall notify the assigned Indian Child Welfare staff member of the reason and method of discipline used for the child by the end of the next business day.

(Res. No. 2023-118)

DMR.7.8.070 Work performed by children.

Foster children shall have opportunities to assume responsibility in household chores appropriate to the child's age, maturity, mental capability, health, and physical ability. These duties shall not interfere with a child's school attendance, family visits, night-time sleep schedule, studies, recreation, or religious/cultural practices.

(Res. No. 2023-118)

DMR.7.8.080 Education.

It is the foster parent's responsibility to make every effort to make sure the children in their care attend school regularly, unless otherwise excused by school officials. Any issues with attendance or performance at school shall be brought to the Indian Child Welfare Department immediately.

(Res. No. 2023-118)

DMR.7.8.090 Moral, Religious, and Cultural Training.

(a) Foster parents shall assist in the provision of the moral training of children in their care. Foster parents shall make opportunities available to each child regarding religious, cultural, or teachings, as well as ensure attendance at services/functions, and ceremonies that are compatible with the child's beliefs or cultural heritage.

(b) Foster parents shall not prevent a child's participation in religious or cultural practices. If the foster parent needs more information on cultural needs of a child, they should approach the Indian Child Welfare Department or worker.

(c) Foster parents are prohibited from forcing a foster child to attend religious services/functions, or ceremonies that the child and the child's biological family does not approve of.

(Res. No. 2023-118)

DMR.7.8.100 Nutrition.

(a) The foster parent shall insure that each foster child receives at least three (3) meals a day. Meals that a child receives as part of a meal program at school may be counted in such total.

(b) The foster parent shall ensure that each foster child is provided a quantity and variety of foods sufficient to meet the child's nutritional needs and to maintain their health and development.

(c) No foster child may be forced to eat against their wishes except by order and supervision of a physician.

When applicable, foster parents shall ensure that each foster child's nutritional needs are met with respect to the foster child's religious or cultural beliefs.

(Res. No. 2023-118)

DMR.7.8.110 Clothing.

Foster parents shall ensure that funds allocated for the purchase of clothing for foster children are used in such a manner that foster children in their care are comfortably dressed within the limits of the funds. Children's clothing shall be maintained in a state of good repair and cleanliness.

(Res. No. 2023-118)

DMR.7.8.120 Medical Care.

(a) Within thirty (30) days of placement in the foster home, the foster parents shall arrange for and ensure attendance of medical, dental, and optical examinations for each child, and provide documentation to Indian Child Welfare on provided forms. All routine follow-ups shall be done in accordance with a medical professional's recommendations.

(b) No foster child shall be given medication not specifically prescribed for the child. Any medicine prescribed for a foster child shall be given exactly as prescribed and only given by an adult.

(c) The foster parent shall report immediately to the Indian Child Welfare Department the occurrence of an unusual accident such as the death or serious injury or serious illness

DMR.7.8.130 Substitute Care.

of any foster child. A serious injury or illness shall be defined as one requiring a medical professional.

(Res. No. 2023-118)

DMR.7.8.130 Substitute Care.

In the event a foster parent has to leave their home temporarily, for reasons such as prolonged illness or temporary absence, the foster children shall be cared for by a responsible adult agreed upon by Indian child Welfare Department or worker.

(Res. No. 2023-118)

**Subchapter DMR.7.9
Responsibility of Foster Parents to the Agency or Legal Custodian**



DMR.7.9.010 Responsibility of foster parents to the agency or legal custodian. DMR.7.9-1
DMR.7.9.020 Records to be maintained by the foster parents. DMR.7.9-2

DMR.7.9.010 Responsibility of foster parents to the agency or legal custodian.

(a) Foster Parents shall be responsible for only accepting children that conform with the conditions stated on their license, such as number of children, ages, or other limitations specified on the license.

(b) Foster children may be accepted into or removed from a foster home only under authorization of the Indian Child Welfare or Tribal Court, where child resides.

(c) Foster Parents shall not accept a child into their home from a source other than the Indian Child Welfare Department unless approved by the Department.

(d) Foster Parents shall keep the Indian Child Welfare Department and legal guardian informed of the child's progress while in their care.

(e) Foster Parent's shall cooperate with the agency or legal guardian in seeing that an appropriate relationship is maintained between the child and their relatives.

(f) Foster Parents shall provide the agency or legal guardian a minimum of thirty (30) days in which to make suitable plans for the child when the foster parents have requested the child's removal from their home.

(g) Foster Parent's shall maintain in confidence any and all sensitive information regarding the children in their care, such as prior medical or family history, prior court proceedings, or any other information that is revealed to the foster parents in confidence. An exception may be made when a child is of age to become party to the case, which is twelve (12) years old. In such case, caution and sensitivity shall still be used. Additionally, foster parents shall not share any information or details with other children.

(h) Foster parents are mandated reporters as defined in this ordinance.

(i) Confidentiality shall be maintained at all times in regard to foster children and their families. Confidential information can only be shared if authorized by the Indian Child Welfare Department.

(j) Use caution with posting children on social media in photos.

(Res. No. 2023-118)

DMR.7.9.020 Records to be maintained by the foster parents.

(a) Foster parents shall maintain records while foster children are in their care. At the request of the Indian Child Welfare Department or the legal guardian, foster parent(s) shall make such records available for inspection while children are in their care. Such records shall contain the following information:

- (1) Child's name and any aliases by which they are known.
- (2) Child's birthdate.
- (3) Name of person or agency to be notified in case of an emergency.
- (4) Name of physician to be notified in case of an emergency.
- (5) Date child received care.
- (6) Medical information about the child while in care such as medical examinations, immunizations illnesses, accidents, and allergies (medical and food), including dates of each.
- (7) Name of dentists and when child was seen.
- (8) Name of optician and dates child was seen.
- (9) Name of counselors and dates child was seen.
- (10) Name of school attended and grades received.
- (11) Dates and locations when a child spent the night away from the foster home (overnight with friends, respite care).

(Res. No. 2023-118)

**Subchapter DMR.7.10
Responsibility of the Agency to the Foster Parents or Legal Custodian**



DMR.7.10.010 Responsibility of the agency to the foster parents or legal guardian.
.....DMR.7.10-1

DMR.7.10.010 Responsibility of the agency to the foster parents or legal guardian.

(a) The foster home shall have a means of contacting the agency, or its designated representative, twenty-four (24) hours a day, seven (7) days a week, 365 days per year.

(b) The agency shall assist the foster parents with any problems with the child placement.

(c) The foster parents shall be paid according to the Wisconsin Uniform Foster Care Rate

(d) The agency shall provide the foster parents with policies, foster parent handbook, and procedures of the Indian Child Welfare Department regarding placement of children into their homes. The foster parent(s) may request and receive information from the agency at the time of licensure and at any time the home has been without placements for twelve (12) months.

(e) The Appeals and Fair Hearing Process shall be used if any disagreements or differences arise between the foster parent(s) and the Agency, or the foster parents and legal guardian, that cannot be resolved between the parties.

(Res. No. 2023-118)

**Subchapter DMR.7.11
Complaints**



DMR.7.11.010 Reporting of Complaints.....DMR.7.11-1
DMR.7.11.020 Investigation.....DMR.7.11-1

DMR.7.11.010 Reporting of Complaints.

(a) Complaints of any abuse or neglect made by Foster Parents shall be reported to LCO ICW or Sawyer County Health and Human Services.

(b) Complaints made against Foster Parents shall be reported to the Indian Child Welfare Department or to Sawyer County Health and Human Services. Investigations alleging abuse or neglect of foster children by their foster parents shall be conducted independent of the tribe and residing county to prevent bias and to preserve the relationship between the agencies and foster homes.

(Res. No. 2023-118)

DMR.7.11.020 Investigation.

Investigations shall be done by the Indian Child Welfare Department as soon as possible after receiving a complaint. The agency shall determine whether the complaint is valid, and if a Fair Hearing is necessary in accordance with this Code. For the purpose of investigating complaints concerning the health and safety of the foster children, the investigating agency(ies) shall have access to the home at any time during the twenty-four (24) -hour day.

(Res. No. 2023-118)

**Subchapter DMR.7.12
Denial or Revocation of License**



DMR.7.12.010 Denial or revocation of foster care license.DMR.7.12-1

DMR.7.12.010 Denial or revocation of foster care license.

(a) The Tribal Court shall have grounds to revoke a Foster Care License due to a substantial violation by the licensee of any provision of this ordinance or rules thereof. A licensee may also be denied, revoked, or not renewed if the licensee fails to meet minimum requirements to obtain and keep a license.

(b) The agency shall give the licensee written notice of any revocation and the grounds for revocation. The written notice shall be given at least thirty (30) days prior to any revocation.

(Res. No. 2023-118)

**Subchapter DMR.7.13
Appeal and Fair Hearing Process**



DMR.7.13.010 Foster parent right to appeal.DMR.7.13-1
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DMR.7.13.010 Foster parent right to appeal.

Foster Parents or applicants shall have the right to appeal by petition to the Tribal Court for any denial, revocation, nonrenewal of licenses, or any unresolved grievances between a foster home and the agency.

(Res. No. 2023-118)

DMR.7.13.020 Request for hearing.

The request for hearing shall be made in writing to the Tribal Court. Such requests shall be made within thirty (30) days from the date of the notification of denial, nonrenewal or revocation.

(Res. No. 2023-118)

DMR.7.13.030 Fair hearing.

(a) Hearings by the Tribal Court shall be held within thirty (30) days of the receipt of request by a claimant. Adequate preliminary notice of the hearing shall be given to the claimant as to time and place of the requested hearing.

(b) The claimant shall have the opportunity to examine all documents and records to be used at the hearing, to present their case, and to have the opportunity to examine and call witnesses.

(c) A record of the proceedings shall be kept which shall include testimony, exhibits, papers, other evidence presented as part of the hearing process, and the decision rendered.

(Res. No. 2023-118)

DMR.7.13.040 Decisions.

The decision on the hearing shall be rendered by the Tribal Court with or without the presence of the claimant. If the decision is rendered without their presence, a copy of the decision shall be mailed to them. A copy of the decision shall be forwarded to the Agency.

(Res. No. 2023-118)

Title GNC
General Conduct



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General Conduct Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians



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GNC.4.1.010 Nature of Offenses

Each of the offenses contained in this Code is a civil offense, and, except for the civil liability provisions contained in Section GNC.4.3.040, Section GNC.4.3.070, and Section GNC.4.3.090, may be prosecuted only by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.1.010 was formerly codified as LCOTCC §4.1

GNC.4.1.020 Civil Procedure Applicable

Except as provided in this Code, the procedures established in Chapter TCT.2, Chapter TCT.3, and Chapter DMR.2, apply to all actions commenced under this chapter.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.1.020 was formerly codified as LCOTCC §4.2

GNC.4.1.030 Deposit Schedule

Officers citing a violation under this Code may include in the citation, as the deposit amount allowed, the amount for the corresponding state violation shown in the "total" column of the State of Wisconsin Uniform State Traffic Deposit Schedule, the Alcohol Beverages, Harassment, Safety, and Drug Paraphernalia Deposit Schedule, and the Trespass to Land Deposit Schedule. This section does not authorize citation under this Code for a

violation which may be listed in one of the Deposit Schedules for which a corresponding offense has not been adopted in this Code either explicitly or by reference.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.1.030 was formerly codified as LCOTCC §4.3

GNC.4.1.040 Commencement of Action by Citation

An action may be started for the violation of any provision of this Code by the use of a citation form approved by the Tribal Court. The citation form shall contain at least the following information:

- (a) The name or apparent name of the individual cited.
- (b) The address, if known, of the individual cited.
- (c) A brief verbal description of the charge, and the section number of this Code under which the charge is made.
- (d) The date, time, and place, of the violation.
- (e) The location of the Tribal Court and a date for appearance, or the Clerk of Court's phone number and an instruction to call the Clerk of Court to obtain appearance information.
- (f) If allowed, the amount of deposit, and a place to enter a written plea of no contest, and the deadline for making the deposit and entering the written plea of no contest with the Clerk of Court, together with an instruction that if deposit and plea are made by the deadline the court will allow the defendant not to appear, the court will adjudge the defendant to have committed the violation, and the court will order the deposit forfeited as the civil penalty for the violation.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.1.040 was formerly codified as LCOTCC §4.4

GNC.4.1.050 Parties to a Violation

(a) Whoever is concerned in the commission of a violation of this Code for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(b) A person is concerned in the commission of a violation if the person:

- (1) Directly commits the violation;
- (2) Aids and abets the commission of it; or
- (3) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.1.050 was formerly codified as LCOTCC §4.5

GNC.4.1.060 Appearance and Plea by Defendant

(a) If allowed by the citation, a defendant may pay the deposit indicated on the citation, sign the written plea of no contest on the citation, and return the deposit and the written pleas to the Clerk of Court at any time before the deadline stated on the citation. If the defendant does so, the court shall allow the defendant not to appear, the court shall adjudge the defendant to have committed the violation, and the court shall order the deposit forfeited as the civil penalty for the violation.

(b) If the defendant does not pay the deposit and enter the written plea of no contest as provided in Section GNC.4.1.060(a), and if the defendant does not appear on the date instructed, the court may find the defendant in default, enter judgment against defendant, and order the defendant to pay a forfeiture as is appropriate under the circumstances, but no less than the amount of the deposit, if any, stated, on the citation.

(c) If the defendant appears on the date instructed, the defendant may admit or deny the charge, or may plead no contest to the charge. If the defendant admits the charge or pleads no contest, the court shall order the defendant to pay a forfeiture as is appropriate under the circumstances. If the defendant denies the charge, the court shall set a trial date, or may conduct a trial immediately if the parties consent and the court's calendar allows.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.1.060 was formerly codified as LCOTCC §4.6

GNC.4.1.070 Judgment

(a) If judgment is entered against defendant and defendant is ordered to pay a forfeiture, the defendant shall have 90 days to pay the forfeiture, unless the court sets a different time.

(b) Any forfeiture not paid when due shall accrue interest at the rate of 1% per month, starting with the initial payment deadline, compounded annually.

(c) The Tribe may commence any enforcement action allowed by law against any defendant who does not pay a forfeiture when due.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.1.070 was formerly codified as LCOTCC §4.7

**Subchapter GNC.4.2
Protection of the Judicial Process and Other Governmental Processes**



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GNC.4.2.010 Perjury

(a) Whoever under oath or affirmation orally makes a false material statement which the person does not believe to be true, in any matter, cause, action or proceeding, before any of the following, whether legally constituted or exercising powers as if legally constituted, shall forfeit no more than \$5,000:

(1) The tribal court, and any judge or magistrate thereof;

(2) A notary public while taking testimony for use in an action or proceeding pending in tribal court;

(b) It is not a defense to a prosecution under this section that the perjured testimony was corrected or retracted.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.010 was formerly codified as LCOTCC §4.8

GNC.4.2.020 False Swearing

Whoever under oath or affirmation makes or subscribes a false statement which the person does not believe is true shall forfeit not more than \$5,000.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.020 was formerly codified as LCOTCC §4.9

GNC.4.2.030 Resisting or Obstructing Officer

(a) Whoever knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority, shall forfeit not more than \$5,000.

(b) In this section:

(1) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty including the service of any summons or civil process.

(2) "Officer" means any tribal law enforcement or conservation officer, including any officer of the Great Lakes Indian Fish and Wildlife Commission, or other tribal officer or employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(c) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or the officer's superior for any damages adjudged against either of them by reason thereof.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.030 was formerly codified as LCOTCC §4.10

GNC.4.2.040 Failure to Report to Jail

Any person who is subject to an order of the Tribal Court to report to jail as a sanction for contempt of court and who intentionally fails to report to jail as required shall forfeit not more than \$5,000 for each day that he or she so fails to report.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.040 was formerly codified as LCOTCC §4.11

GNC.4.2.050 Violation of Nonsecure Custody Order

If a person has been placed in nonsecure custody by an Indian Child Welfare worker or by a tribal judge and the person is alleged to be a minor in need of care under the Tribe's Child Welfare Code, the person shall forfeit not more than \$5,000 if he or she intentionally fails to comply with the conditions of his or her placement in nonsecure custody.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.050 was formerly codified as LCOTCC §4.12

GNC.4.2.060 Destruction of Documents Subject to Subpoena

(a) Whoever intentionally destroys, alters, mutilates, conceals, removes, withholds or transfers possession of a document, knowing that the document has been subpoenaed by the tribal court shall forfeit not more than \$5,000.

(b) Whoever uses force, threat, intimidation or deception, with intent to cause or induce another person to destroy, alter, mutilate, conceal, remove, withhold or transfer possession of a subpoenaed document, knowing that the document has been subpoenaed by the tribal court shall forfeit not more than \$5,000.

(c) It is not a defense to a prosecution under this section that:

(1) The document would have been legally privileged or inadmissible in evidence.

(2) The subpoena was directed to a person other than the defendant.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.060 was formerly codified as LCOTCC §4.13

GNC.4.2.070 Bribery of Witnesses

Whoever does any of the following shall forfeit not more than \$5,000:

(a) With intent to induce another to refrain from giving evidence or testifying in any matter before the tribal court, and any judge or magistrate thereof, transfers to him or her or on his or her behalf, any property or any monetary or financial advantage; or

(b) Accepts any property or any monetary or financial advantage, knowing that such property or advantage was transferred to him or her or on his or her behalf with intent to induce him or her to refrain from giving evidence or testifying in any matter before the tribal court, and any judge or magistrate thereof.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.070 was formerly codified as LCOTCC §4.14

GNC.4.2.080 Obstructing Justice

(a) Whoever for a consideration knowingly gives false information to any officer of tribal court with intent to influence the officer in the performance of official duties shall forfeit not more than \$5,000.

(b) "Officer of tribal court" includes judge, magistrate, reporter, clerk of court (and deputies and assistants), and tribal attorney (and deputies and assistants).

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.080 was formerly codified as LCOTCC §4.15

GNC.4.2.090 Simulating Legal Process

(a) In this section, "legal process" includes a subpoena, summons, complaint, warrant, injunction, writ, notice, pleading, order or other document that directs a person to perform or refrain from performing a specified act and compliance with which is enforceable by the tribal court or a tribal governmental agency.

(b) Whoever sends or delivers to another any document which simulates legal process shall forfeit not more than \$5,000.

(c) Proof that a document specified under sub. (a) was mailed or was delivered to any person with intent that it be forwarded to the intended recipient is sufficient proof of sending.

(d) This section applies even though the simulating document contains a statement to the effect that it is not legal process.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.090 was formerly codified as LCOTCC §4.16

GNC.4.2.100 Impersonating Peace Officers

Whoever impersonates any tribal law enforcement or conservation officer, including any officer of the Great Lakes Indian Fish and Wildlife Commission, with intent to mislead others into believing that the person is actually such an officer shall forfeit not more than \$5,000.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.2.100 was formerly codified as LCOTCC §4.17

Subchapter GNC.4.3 Protection of Property



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GNC.4.3.020 Graffiti.....	GNC.4.3-1
GNC.4.3.030 Fraud on Hotel or Restaurant Keeper or Transit Operator	GNC.4.3-1
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GNC.4.3.050 Use of Cheating Tokens	GNC.4.3-4
GNC.4.3.060 Issue of Worthless Check.....	GNC.4.3-4
GNC.4.3.070 Worthless Checks; Civil Liability.....	GNC.4.3-5
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GNC.4.3.010 Damage to Property

Whoever intentionally causes damage to any physical property of another without the person's consent shall forfeit not more than \$5,000, and in addition shall be liable in restitution to the owner for the actual cost to repair or replace the property damaged, and in addition may be ordered to perform appropriate community service.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.3.010 was formerly codified as LCOTCC §4.18

GNC.4.3.020 Graffiti

Whoever intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into the physical property of another without the other person's consent shall forfeit not more than \$5,000, and in addition shall be liable in restitution to the owner for the actual cost to repair or replace the property marked, drawn, written, or etched on, and in addition may be ordered to perform appropriate community service.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.3.020 was formerly codified as LCOTCC §4.19

GNC.4.3.030 Fraud on Hotel or Restaurant Keeper or Transit Operator

- (a) Whoever does any of the following shall forfeit not more than \$5,000:

(1) Having obtained any beverage, food, lodging or other service or accommodation at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally absconds without paying for it.

(2) While a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of the relationship as guest.

(3) Having obtained any transportation service from a transit operator, intentionally absconds without paying for the service.

(b) Under this section, prima facie evidence of an intent to defraud is shown by:

(1) The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any guest to any campground, hotel, motel, boarding or lodging house, or restaurant, in payment of any obligation arising out of the relationship as guest. Those facts also constitute prima facie evidence of an intent to abscond without payment.

(2) The failure or refusal of any guest at a campground, hotel, motel, boarding or lodging house, or restaurant, to pay, upon written demand, the established charge for any beverage, food, lodging or other service or accommodation actually rendered.

(3) The giving of false information on a lodging registration form or the giving of false information or presenting of false or fictitious credentials for the purpose of obtaining any beverage or food, lodging or credit.

(4) The drawing, endorsing, issuing or delivering to any campground, hotel, motel, boarding or lodging house, or restaurant, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for any beverage, food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

(c) The refusal to pay a transit operator the established charge for transportation service provided by the operator constitutes prima facie evidence of an intent to abscond without payment.

(d) Any person violating this section may also be required to pay restitution to the hotel, restaurant keeper or transit owner or operator, provided that no such person may receive double compensation under both this section and Section GNC.4.3.040.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.3.030 was formerly codified as LCOTCC §4.20

GNC.4.3.040 Fraud on Hotel or Restaurant Keeper or Transit Operator; Civil Liability

(a) Any person who incurs injury to his or her business or property as a result of a violation of Section GNC.4.3.030 may bring a civil action against any adult or emancipated minor who caused the loss for all of the following:

(1) The retail value of the beverage, food, lodging, accommodation, transportation or service involved in the violation. A person may recover under this paragraph only if he or she exercises due diligence in demanding payment for the beverage, food, lodging, accommodation, transportation or service.

(2) Any property damages not covered under par. (1).

(b) In addition to sub. (a), if the person who incurs the injury prevails, the judgment in the action may grant any of the following:

(1) Punitive damages of not more than 3 times the amount under sub. (a) (1) and (2). No additional proof is required for an award of punitive damages under this paragraph, provided that no person may receive double compensation under both this section and Section GNC.4.3.030.

(2) Reasonable attorney fees for actions commenced under this section.

(c) Notwithstanding sub. (b), the total amount awarded for punitive damages and attorney fees may not exceed \$1,000.

(d) At least 20 days prior to commencing an action under this section the plaintiff shall notify the defendant, by mail, of his or her intent to bring the action and of the acts constituting the basis for the violation of Section GNC.4.3.030. The plaintiff shall send the notice by regular mail supported by an affidavit of service of mailing or by a certificate of mailing obtained from the U.S. post office from which the mailing was made. The plaintiff shall mail the notice to the defendant's last-known address or to the address provided on the check or order. If the defendant pays the amount due for the beverage, food, lodging, accommodation, transportation or service prior to the commencement of the action, he or she is not liable under this section.

(e) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under Section GNC.4.3.030. A judgment under Section GNC.4.3.030 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.3.040 was formerly codified as LCOTCC §4.21

GNC.4.3.050 Use of Cheating Tokens

Whoever obtains the property or services of another by depositing anything which he or she knows is not lawful money or an authorized token in any receptacle used for the deposit of coins or tokens shall forfeit not more than \$5,000.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.3.050 was formerly codified as LCOTCC §4.22

GNC.4.3.060 Issue of Worthless Check

(a) Whoever issues any check or other order for the payment which, at the time of issuance, he or she intends shall not be paid shall forfeit not more than \$5,000.

(b) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money, intended it should not be paid:

(1) Proof that, at the time of issuance, the person did not have an account with the drawee; or

(2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order; or

(3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order.

(c) This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check.

(d) In addition to the forfeiture provided for violation of this section, a judge may order a violator to pay restitution, provided that no person may receive double compensation under both this section and Section GNC.4.3.070.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.3.060 was formerly codified as LCOTCC §4.23

GNC.4.3.070 Worthless Checks; Civil Liability

(a) In this section, "pecuniary loss" means:

(1) All special damages, but not general damages, including but not limited to the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses; and

(2) Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense under Section GNC.4.3.060.

(b) Any person who incurs pecuniary loss, including any holder in due course of a check or order, may bring a civil action against any adult or emancipated minor who:

(1) Issued a check or order in violation of Section GNC.4.3.060, and

(2) Knew, should have known or recklessly disregarded the fact that the check or order was drawn on an account that did not exist, was drawn on an account with insufficient funds or was otherwise worthless.

(c) If the person who incurs the loss prevails, the judgment in the action shall grant monetary relief for all of the following:

(1) The face value of whatever checks or orders were involved.

(2) Any actual damages not covered under par. (a).

(3) Punitive damages of not more than 3 times the amount under pars. (1) and (2), provided that no person may receive double compensation under both this section and Section GNC.4.3.060. No additional proof is required for an award of punitive damages under this paragraph.

(4) All actual costs of the action, including reasonable attorney fees.

(d) Notwithstanding sub. (c) (3) and (4), the total amount awarded for punitive damages and reasonable attorney fees may not exceed \$1,000.

(e) Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under Section GNC.4.3.060.

(f) At least 20 days prior to commencing an action under this section, the plaintiff shall notify the defendant, by mail, of his or her intent to bring the action. Notice of nonpayment or dishonor shall be sent by the payee or holder of the check or order to the drawer by regular mail supported by an affidavit of service of mailing or by a certificate of mailing obtained from the U.S. post office from which the mailing was made. The plaintiff shall mail the notice to the defendant's last-known address or to the address provided on the check or order. If the defendant pays the check or order prior to the commencement of the action, he or she is not liable under this section.

(g) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under Section GNC.4.3.060. A judgment under Section GNC.4.3.060 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.3.070 was formerly codified as LCOTCC §4.24

GNC.4.3.080 Retail Theft

(a) In this section:

(1) "Merchant" includes, without limitation, any retailer and any casino, innkeeper, motelkeeper, or hotelkeeper.

(2) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(3) "Theft detection device remover" means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(4) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(5) "Value of merchandise" means:

(A) For property of the merchant, the value of the property; or

(B) For merchandise held for resale, the merchant's stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant's stated price, the difference between the merchant's stated price of the merchandise and the altered price.

(b) A person shall forfeit not more than \$5,000 if he or she does any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

(1) Intentionally alters an indication of price or value of merchandise held for resale by a merchant or property of a merchant.

(2) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.

(3) Intentionally transfers merchandise held for resale by a merchant or property of a merchant.

(4) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.

(5) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.

(6) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(7) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.

(8) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(c) A merchant, a merchant's adult employee or a merchant's security agent who has reasonable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. The merchant, merchant's adult employee or

merchant's security agent may release the detained person before the arrival of a law enforcement officer or parent or guardian. Any merchant, merchant's adult employee or merchant's security agent who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

(d) In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.

(e) In addition to the forfeiture provided for violation of this section, a judge may order a violator to pay restitution, provided that no person may receive double compensation under both this section and Section GNC.4.3.090.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.3.080 was formerly codified as LCOTCC §4.25

GNC.4.3.090 Retail Theft; Civil Liability

(a) Any person who incurs injury to his or her business or property as a result of a violation of Section GNC.4.3.080 may bring a civil action against any individual who caused the loss for all of the following:

(1) The retail value of the merchandise unless it is returned undamaged and unused. A person may recover under this paragraph only if he or she exercises due diligence in demanding the return of the merchandise immediately after he or she discovers the loss and the identity of the person who has the merchandise.

(2) Any actual damages not covered under par. (1).

(b) In addition to sub. (a), if the person who incurs the loss prevails, the judgment in the action may grant any of the following:

(1) Punitive damages of not more than 3 times the amount under sub. (a), provided that no person may receive double compensation under both this section and Section GNC.4.3.080.

(2) If the action is brought against a minor or against the parent who has custody of their minor child for the loss caused by the minor, the punitive damages may not exceed 2 times the amount under sub. (a).

(3) No additional proof is required for an award of punitive damages under this paragraph.

(4) All actual costs of the action, including reasonable attorney fees.

(c) Notwithstanding sub. (b) and except as provided in sub. (d), the total amount awarded for punitive damages and reasonable attorney fees may not exceed \$1,000.

(d) Notwithstanding sub. (b), the total amount awarded for punitive damages and reasonable attorney fees may not exceed \$500 if the action is brought against a minor or against the parent who has custody of their minor child for the loss caused by the minor.

(e) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under Section GNC.4.3.080. A judgment under Section GNC.4.3.080 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.3.090 was formerly codified as LCOTCC §4.26

**Subchapter GNC.4.4
Protection of Public Peace**



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 GNC.4.4.020 Unlawful Use of Telephone GNC.4.4-1
 GNC.4.4.030 Unlawful Use of Computerized Communication Systems GNC.4.4-2
 GNC.4.4.040 Harassment GNC.4.4-4
 GNC.4.4.050 Bullying GNC.4.4-4
 GNC.4.4.060 Adoption of State Laws GNC.4.4-4

GNC.4.4.010 Disorderly Conduct

Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance shall forfeit not more than \$5,000.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.4.010 was formerly codified as LCOTCC §4.27

GNC.4.4.015 Banning of Electric Devices

Whoever uses, sells, or possesses electronic smoking devices at any tribal building, or any business located within the Reservation, shall receive a citation in the amount of one hundred dollars (\$100).

(Res. No. 2023-43)

GNC.4.4.020 Unlawful Use of Telephone

Whoever does any of the following shall forfeit not more than \$5,000.

(a) With intent to harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(b) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.

(c) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.

(d) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person at the called number.

(e) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

(f) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.

(g) With intent to frighten, intimidate, threaten or abuse, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(h) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.4.020 was formerly codified as LCOTCC §4.28

GNC.4.4.030 Unlawful Use of Computerized Communication Systems

In this section, "message" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or any transfer of a computer program, sent or received on the Lac Courte Oreilles Reservation. Whoever does any of the following shall forfeit not more than \$5,000.

(a) With intent to harass, annoy or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(b) With intent to harass, annoy or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(c) With intent solely to harass another person, sends repeated messages to the person on an electronic mail or other computerized communication system.

(d) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.

(e) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(g) Knowingly permits or directs another person to send a message prohibited by this section from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.

(h) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(i) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(j) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(k) With intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(l) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(m) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.4.030 was formerly codified as LCOTCC §4.29

GNC.4.4.040 Harassment

(a) In this section "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short.

(b) Whoever, with intent to harass or intimidate another person, does any of the following shall forfeit not more than \$5,000:

(1) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.

(2) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(c) This section does not prohibit any person from participating in lawful conduct in labor disputes.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.4.040 was formerly codified as LCOTCC §4.30

GNC.4.4.050 Bullying

Whoever commits any intentional written, verbal or physical act which:

(a) Physically harms a student or damages the student's property;

(b) Places a student in reasonable fear of physical harm or damage to the student's property;

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Substantially disrupts the orderly operation of the school shall forfeit not more than \$5000.00 and shall be liable for restitution to the student for the actual costs to repair or replace the student's damaged property.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.4.050 was formerly codified as LCOTCC §4.31

GNC.4.4.060 Adoption of State Laws

The provisions of Wisconsin Statutes Section 961.41(3g)(e) relating to possession of marijuana, Subchapter VI of the Uniform Controlled Substances Act relating to drug paraphernalia, and Section 215.07(4) relating to underage drinking for which the penalties

for violations thereof are forfeiture, are adopted as part of Section GNC.4.4.040. A violation of Section GNC.4.4.040 shall subject the person to forfeiture not to exceed the maximum provided for in the corresponding Wisconsin Statute in addition to the other civil penalties prescribed thereby.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.4.060 was formerly codified as LCOTCC §4.32

Subchapter GNC.4.5 Regulation of Motor Vehicles



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GNC.4.5.010 Adoption of State Laws

Each of the regulations contained in chapters 341-348, Wisconsin Statutes, for which the penalty for a violation thereof is a forfeiture, is adopted as a part of this section. The violation by any person of any such regulation is a violation of this section, and shall subject the person to a forfeiture not to exceed the maximum forfeiture provided in the corresponding state law. As to any particular violation or alleged violation, the content of chapters 341-348, Wisconsin Statutes, and the maximum forfeiture for any particular violation or alleged violation, shall be determined by the language of the statute and the maximum forfeiture provided at the time of the particular violation or alleged violation

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.5.010 was formerly codified as LCOTCC §4.33

GNC.4.5.020 Suspension and Revocation

The violation by any person of any regulation as set forth in Section GNC.4.5.010 shall subject the person to a suspension or revocation of license or operating privileges for a period not to exceed the maximum suspension or revocation period provided in the corresponding state law. The Clerk of Court shall report all orders for suspension or revocation to the state Department of Transportation to effect such suspension or revocation.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.5.020 was formerly codified as LCOTCC §4.34

GNC.4.5.030 Snowmobile and All-Terrain Vehicle Registration

The requirements of sec. 341.055 and 341.057, Wisconsin Statutes, shall not apply to any snowmobile or all-terrain vehicle registered under chapter 350 or 351, Lac Courte Oreilles Ordinances.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.5.030 was formerly codified as LCOTCC §4.35

Subchapter GNC.4.6 Operation of All-Terrain Vehicles



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 GNC.4.6.070 Penalties GNC.4.6-2

GNC.4.6.010 Purpose

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.010 was formerly codified as LCOTCC §4.36

GNC.4.6.020 Effective Date and Severability

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.020 was formerly codified as LCOTCC §4.37

GNC.4.6.030 Definitions

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.030 was formerly codified as LCOTCC §4.38

GNC.4.6.040 Rules of Operation

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.040 was formerly codified as LCOTCC §4.39

GNC.4.6.050 Operation on or near Highways

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.050 was formerly codified as LCOTCC §4.40

GNC.4.6.060 Enforcement

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.060 was formerly codified as LCOTCC §4.41

GNC.4.6.070 Penalties

Repealed.

(Res. No. 2023-45; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.6.070 was formerly codified as LCOTCC §4.42

**Subchapter GNC.4.7
School Attendance**



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 GNC.4.7.020 Truancy GNC.4.7-1
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 GNC.4.7.050 Failure to Cause a Child to Attend School Regularly GNC.4.7-2
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GNC.4.7.010 Definition of Terms

Repealed.

(Res. No. 2022-99; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.7.010 was formerly codified as LCOTCC §4.43

GNC.4.7.020 Truancy

Repealed.

(Res. No. 2022-99; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.7.020 was formerly codified as LCOTCC §4.44

GNC.4.7.030 Habitual Truancy

Repealed.

(Res. No. 2022-99; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.7.030 was formerly codified as LCOTCC §4.45

GNC.4.7.040 Dropouts

Repealed.

(Res. No. 2022-99; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.7.040 was formerly codified as LCOTCC §4.46

GNC.4.7.050 Failure to Cause a Child to Attend School Regularly

GNC.4.7.050 Failure to Cause a Child to Attend School Regularly

Repealed.

(Res. No. 2022-99; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.7.050 was formerly codified as LCOTCC §4.47

GNC.4.7.060 Enforcement of Ordinance

Repealed.

(Res. No. 2022-99; Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.7.060 was formerly codified as LCOTCC §4.48

**Subchapter GNC.4.8
Curfew for Minors**



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GNC.4.8.010 Authority

This chapter is enacted pursuant to Article V, Section 1(s), of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.8.010 was formerly codified as LCOTCC §4.49

GNC.4.8.020 Definitions

For the purpose of this chapter, the following terms shall have the meaning as described below:

(a) "Minor" means any person seventeen (17) years of age or younger.

(b) "Law enforcement officer" means any officer of the Lac Courte Oreilles Law Enforcement Department.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.8.020 was formerly codified as LCOTCC §4.50

GNC.4.8.030 Prohibited Behaviors

(a) Regulation of Minors Seventeen (17) and Younger.

(1) It shall be unlawful for any person seventeen (17) years of age or younger to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alleyway, park, school grounds, swimming beach, cemetery, playground, public building, private residences left open to the public without the presence of adult supervision, or any other public place on the Lac Courte Oreilles Reservation between the hours of

11:00 pm and 6:00 am; unless accompanied by his or her parent, legal guardian, or another person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore.

(2) A minor, unaccompanied by parent, legal guardian or another person having lawful custody who is found upon any such public place during the aforementioned hours shall be rebuttably presumed to be there unlawfully and without reasonable excuse.

(b) Regulation of Minors Aged Sixteen (16) or Seventeen (17).

(1) It shall be unlawful for any person sixteen (16) years of age or seventeen (17) years of age to be on foot, bicycle, or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building, private residences left open to the public without adult supervision, or any other public place on the Lac Courte Oreilles Reservation between the hours of 11:00pm and 6:00am Sunday through Thursday and between the hours of 12:00 midnight and 6:00am Friday and Saturday; unless accompanied by his or her parent, legal guardian, or another person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore.

(2) A minor, unaccompanied by parent, guardian or another person having lawful custody who is found upon any such public place during the aforementioned hours shall be rebuttably presumed to be there unlawfully and without reasonable excuse.

(c) Exceptions.

(1) This section shall not apply to a minor:

(A) Who is on his or her own premises or in the area immediately adjacent thereto.

(B) Whose employment, paid or otherwise, makes it necessary to be on the streets, alleys or public places or in any other motor vehicle during such hours.

(C) Who is attending an official school activity, an activity sponsored by a religious or community organization or any other supervised cultural, educational or social event or is going to or returning from, without any detour or stop, such activity.

(D) Who is otherwise lawfully exercising treaty-protected hunting, fishing, or gathering rights.

(2) This section shall not apply to emergency situations defined as an unforeseen combination of circumstances that calls for immediate action. An emergency situation includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life or serious damage to significant property.

(3) These exceptions shall not, however, permit a minor to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(d) Regulation of Parents and Guardians.

(1) It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under eighteen (18) years of age to allow or permit such person to violate the provisions of (a), (b) or (c)(3), above.

(2) If a parent, guardian, or custodian was informed by any law enforcement officer of a separate violation of this section occurring within thirty (30) days of the present offense, it shall be rebuttably presumed that the parent, guardian or custodian allowed or permitted the present violation.

(3) Exception. Any parent, guardian or custodian herein who shall have made a missing person notification to the Sawyer County Sheriff's Department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this section.

(e) Regulation of Other Adults. It shall be unlawful for any person, firm, or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor to loiter, loaf or idle in such place during the hours prohibited by this section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this section shall find a minor loitering, loafing or idling in such place of business, the operator shall immediately notify the Sawyer County Sheriff's Department and inform them of the violation.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.8.030 was formerly codified as LCOTCC §4.51

GNC.4.8.040 Detention Authorized

Every law enforcement officer is hereby authorized to detain any minor an officer reasonably believes is violating the provisions of this chapter until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified as soon

as possible thereafter report to the police or sheriff's department for the purpose of taking physical custody of the minor and shall sign a release for him or her. If no response is received, the police or sheriff's department shall cite the minor under the applicable section of this ordinance, and if a parent or guardian cannot be located, deliver the minor to his or her residence if the conditions at the residence are suitable. If conditions at the residence are unsuitable, or if the minor is under ten (10) years of age, the police or sheriff's department shall refer the minor and request a transfer of custody to the Lac Courte Oreilles Indian Child Welfare Department or Sawyer County Social Services Department.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.8.040 was formerly codified as LCOTCC §4.52

GNC.4.8.050 Penalties

(a) Warning. The first time any person is suspected of violating any provisions of this chapter, the person may be given a warning and advised of the general requirements of this chapter and that a subsequent violation shall result in the application of a penalty or forfeiture as provided in this section.

(b) Subsequent Offense - Minor. Any minor who has been warned in the manner provided in Section GNC.4.8.050(a) and who thereafter shall violate Section GNC.4.8.030(a) or Section GNC.4.8.030(b) shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-Five Dollars (\$25.00), together with the cost of prosecution. The Lac Courte Oreilles Tribal Court may also order the child cited herein to perform community service appropriate to the age of the minor and circumstances of the violation. The parent, guardian or person having legal custody of the minor cited herein is responsible to the court to see that the minor complies with the court-ordered community service.

(c) Subsequent Offense - Parent or Guardian.

(1) Any parent, guardian or person having legal custody of a minor, and who has been warned in the manner provided in Section GNC.4.8.050(a), and when minor thereafter violates any of the provisions of this chapter shall be subject to a forfeiture of:

(A) not less than Twenty-Five Dollars (\$25.00) and not more than Two Hundred-Fifty Dollars (\$250.00) for any violation that not been preceded within five (5) years by a previous conviction;

(B) not less than Fifty Dollars (\$50.00) and not more than Two Hundred- Fifty Dollars (\$250.00) for any violation occurring within five (5) years after a first conviction;

(C) not less than One Hundred Dollars (\$100.00) and not more than Two Hundred-Fifty Dollars (\$250.00) for any violation occurring within five (5) years after a second conviction;

(D) not less than Two Hundred Dollars (\$200.00) and not more than Two Hundred-Fifty Dollars (\$250.00) for any violation occurring within five (5) years after a third or subsequent conviction, together with the cost of prosecution.

(2) The Court may also order the parent, guardian or person having legal custody of the minor cited herein to perform community service appropriate to circumstances of the violation.

(d) Other Adults. Any person, firm or organization who has been warned under Section GNC.4.8.050(a) and who thereafter violates Section GNC.4.8.030(e), shall be subject to a forfeiture of not less than Twenty-Five Dollars (\$25.00) and not more than Two Hundred-Fifty Dollars (\$250.00), together with the costs of prosecution.

(e) Responsibility for Payment. The minor and adult or adults cited are responsible for payment of any fines levied herein within sixty (60) days of citation. This subsection expressly prohibits payment of fines levied against a minor or adult herein using Tribal funds.

(f) Consequence of Non-Payment. A minor that does not remit payment for a fine issued under this chapter within sixty (60) days of issuance may be summoned back to court and is subject to suspension or revocation of Tribal benefits, including, but not limited to, hunting, fishing, and housing rights as determined by the Court.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.8.050 was formerly codified as LCOTCC §4.53

GNC.4.8.060 Children's Code

Nothing within this chapter shall be construed to limit any actions or remedies available under the Lac Courte Oreilles Children's Code.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.8.060 was formerly codified as LCOTCC §4.54

**Subchapter GNC.4.9
Open Burning Fire Prevention**



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 GNC.4.9.100 Enforcement GNC.4.9-6
 GNC.4.9.110 Penalties GNC.4.9-6

GNC.4.9.010 Purpose and Scope

(a) Purpose. The purpose of this chapter is to control and monitor the setting of fires and open or barrel burning within the exterior boundaries of the Lac Courte Oreilles Reservation by any person in order to protect the welfare, peace, safety, environment, and property of the Lac Courte Oreilles Reservation and its Tribal Membership.

(b) Scope. This chapter applies to all open fires within the exterior boundaries of the Lac Courte Oreilles Reservation in Wisconsin as designated in its Treaties with the United States, including Tribal and all other Trust lands and fee lands held by the Tribe or individual tribal members and lands acquired outside the Reservation by or on behalf of Lac Courte Oreilles, including the 1,200 acres of Farm Administration land outside the reservation and all subsequent land acquired by the Lac Courte Oreilles Tribe.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.010 was formerly codified as LCOTCC §4.55

GNC.4.9.020 Effective Date and Severability

(a) Effective Date. This chapter shall be effective upon the date of adoption by Resolution of the Lac Courte Oreilles Tribal Governing Board, until amended or otherwise expressly invalidated by Tribal Governing Board legislation.

(b) Severability. The provisions of the chapter are severable. If any section, provision, or portion of this chapter or its application to any person or circumstance is held invalid by the Lac Courte Oreilles Tribal Court, such invalidity shall not effect other provisions or applications of this Ordinance, which can be given without the invalid provisions or application.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.020 was formerly codified as LCOTCC §4.56

GNC.4.9.030 Definitions

As used in Subsection IX, the following words and phrases shall mean:

(a) Brush. Wood debris commonly associated with land clearing of all types such as landscaping, trail cleaning and general yard maintenance. Additional materials, which may fall into this category, are clean lumber from demolition, leaves, bark and other woody scraps from various activities.

(b) Construction/Demolition Material. Wood and non-wood products commonly associated with the demolition of structures, including but not limited to; shingles of all types, insulation of all types, gypsum board, tar paper, metal plumbing, ductwork, wiring, and chemically treated wood of all types.

(c) Forest Fire. The term "Forest Fire" as used in this Ordinance means uncontrolled, wild, or running fires occurring on forest, marsh, field, cut-over or other lands within the exterior boundaries of Lac Courte Oreilles Reservation.

(d) Garbage. Animal and vegetable waste resulting from the handling, preparation, cooking, and/or consumption of foods.

(e) Non-recyclable Material. Pyrex glass, window glass, light bulbs, mirrors, broken glass, china, Styrofoam and melamine type plastics, waxed paper, waxed cardboard, garbage, bottle or jar caps and any material for which there is no destination point for reclamation or processing.

(f) Open Burning. Any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed through a stack or chimney, incinerator or other similar device.

(g) Recyclable Material. Brown, clear, and green container glass, aluminum cans, steel containers, bi-metal containers, plastic containers with #1 and #7 inside a triangle on the bottom, corrugated cardboard, newspaper, magazines, mixed paper, office paper, used

motor oil, vehicle tires, and any other material for which there is a destination point named for reclamation or processing.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.030 was formerly codified as LCOTCC §4.57

GNC.4.9.040 General Provisions

(a) Within the exterior boundaries of the Lac Courte Oreilles Reservation, it shall be unlawful for any person to set any fire unless it shall be attended at all times and they have first obtained a Burning Permit from a duly appointed and designated Lac Courte Oreilles Fire Warden, or other designated person from the Lac Courte Oreilles Conservation Department or Lac Courte Oreilles Fire Department on forms supplied from Lac Courte Oreilles Conservation Department, except for:

(1) When a fire is set in a fireplace, fire ring, charcoal grill, portable gas or liquid fueled camp stove or other device that is designated solely for warming the person or cooking food, or boiling sap, or

(2) When the ground is snow-covered.

(b) Any person who sets a fire solely for providing heat to persons or cooking food shall extinguish such fire before leaving it, and upon failure to do so will be in violation of this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.040 was formerly codified as LCOTCC §4.58

GNC.4.9.050 Permitted Procedures

(a) Brush Burning

(1) Brush burning shall be limited to wood products only.

(2) No construction/demolition materials or household garbage may be burned.

(3) No chemically or creosote treated wood may be burned.

(4) Woody materials, which may be, contaminated with other construction materials, including but not limited to; tar paper, insulations of all types, shingles, gypsum board, paint and other wall treatments, shall not be burned.

(5) No recyclable materials as defined in this Ordinance shall be burned.

(6) All brush burning must be done between the hours of 6:00 pm and 12:00 am local time and only when wind conditions are below 8 m.p.h., except that burning may be done at any time when the ground is covered with snow.

(7) No brush burning shall be permitted on Sundays and Holidays.

(b) Barrel Burning

(1) Open/Barrel burning shall be limited to the burning of small woody debris and soiled or other non-recyclable paper.

(2) No recyclable materials as defined may be burned.

(3) No demolition materials as defined may be burned.

(4) Barrels must be covered while burning with a screen, which will hold down flying ash. The screen must be in sound condition and have a mesh size no longer than ½ inch. Barrels must be continually observed by a responsible person during the burning process and completely extinguished before being left.

(5) All barrel burning must be between the hours of 6:00 pm and 12:00 am local time, and only when wind conditions are below 8 m.p.h. except that burning may be done at any time the ground is covered with snow.

(6) No barrel burning shall be permitted on Sundays and Holidays.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.050 was formerly codified as LCOTCC §4.59

GNC.4.9.060 Permit Conditions

Burning permits shall be issued only after consideration of the conditions in Section GNC.4.9.050 and a determination by the authorized permit-issuing agent from the Lac Courte Oreilles Conservation Department or the Lac Courte Oreilles Fire Department that the danger to the resources will be minimized by allowing the permittee to burn if he or she complies with the conditions of the permit and takes all reasonable precautions to prevent the escape of the fire.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.060 was formerly codified as LCOTCC §4.60

GNC.4.9.070 Permit Restrictions

(a) Permits issued pursuant to this section shall include but not limited to restrictions concerning: time of day, location, and minimum required precautionary measures, and the length of the burning period of the permit.

(b) There shall be no burning on Sundays and Holidays. Generally, a permit for brush burning will be issued for three (3) days. If conditions warrant, a permit-issuing agent may restrict a brush burning permit to one (1) day. A permit for barrel burning may be issued on an annual basis, but may be restricted if conditions warrant it. An individual with a duly authorized permit must comply with Section 5 regarding procedures for a brush burning and/or a barrel burning permit.

(c) A "Special Burning Permit" may be issued if an applicant adequately shows to the satisfaction of a permit-issuing agent that he or she cannot burn within the normal permitted hours. It shall be specified in a Special Burning Permit, what specific hours the permittee will be burning.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.070 was formerly codified as LCOTCC §4.61

GNC.4.9.080 Special Authority to Restrict Burning

This chapter authorizes the Lac Courte Oreilles Tribal Governing Board to restrict and forbid the setting of any type of fire or burning within the exterior boundaries of the Lac Courte Oreilles Reservation, by any person, when there is a dangerously dry season. Setting of fire or burning in this particular Section will include but will not be limited to the burning of paper or garbage, burning of leaves, campfires, outside cooking units with the exception that homes where a stove or appliance is located inside the home which is needed in the preparation of food or for heat will be exempted from the restriction and prohibition of fire or burning under this section. Proper notice will be given to the public when this restriction goes into effect by the following notification:

(a) An announcement in the Sawyer County Record and the LCO Times.

(b) Posting notices at the Tribal Office, LCO Conservation Department and other Tribal enterprises.

(c) Announcement over the radio such as WOJB.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.9.080 was formerly codified as LCOTCC §4.62

GNC.4.9.090 Negligent Handling of Any Materials, Which Might Cause a Forest Fire

Any person who would start, kindle, or otherwise encourage a forest fire as defined in Section GNC.4.9.030, through the careless use of smoking materials, fireworks, campfires, motorized equipment, flammable substances, or any other material or item of equipment shall be in violation of this section. Any person whose motorbike, motorcycle, automobile, all-terrain vehicle or other vehicle, which is the cause of a fire, shall be in violation of this section.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.9.090 was formerly codified as LCOTCC §4.63

GNC.4.9.100 Enforcement

A duly appointed and designated Lac Courte Oreilles Fire Warden or Lac Courte Conservation Warden is authorized to enforce all provisions of this chapter and, in addition to civil remedies, may revoke any permit issued pursuant to this chapter upon any failure or refusal of the permittee to comply with the provisions of this chapter.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.9.100 was formerly codified as LCOTCC §4.64

GNC.4.9.110 Penalties

(a) Any person found guilty of a violating any provision of this chapter shall be ordered by the Lac Courte Oreilles Tribal Court to forfeit a minimum amount of not less than \$25.00 nor more than \$500.00 for the first violation; not less than \$75.00 nor more than \$500.00 for the second violation; not less than \$225.00 nor more than \$500.00 for the third violation; and \$500.00 for each additional violation beyond three violations. For each violation, the individual responsible for the cause of the fire will be held accountable for suppression costs determined by the Lac Courte Oreilles Tribal Court upon the recommendation of the Lac Courte Oreilles Conservation Department or Lac Courte Oreilles Fire Department.

(b) If the forfeiture is not paid within 30 days of its issuance, Lac Courte Oreilles Tribal Court will revoke Tribal members' hunting and fishing rights and privileges pursuant to the Lac Courte Oreilles Constitution and the Chippewa treaties of 1837, 1842, and 1854 and any other applicable laws and treaties associated with these privileges. Tribal members who do

not pay their fines in a timely manner will have their names appear on the Lac Courte Oreilles Revocation List.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.9.110 was formerly codified as LCOTCC §4.65

Subchapter GNC.4.10 Fireworks Ordinance



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GNC.4.10.010 Definitions

As used in this subchapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (a) "Tribe" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.
- (b) "Tribal Governing Board" means the Lac Courte Oreilles Tribal Governing Board.
- (c) "Reservation" means the Lac Courte Oreilles Reservation.

(d) "Fireworks" means anything manufactured, processed, or packaged for exploding, emitting sparks or combustion, which does not have another common use, but does not include the following:

- (1) Fuel or lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of an aircraft, watercraft, or motor vehicle.

(4) A match, cigarette lighter, stove, furnace, candle, lantern, or space heater.

(5) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

(6) A toy snack which contains no mercury.

(7) A model rocket engine.

(8) Tobacco and a tobacco product.

(9) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visual effects or to produce audible or visual effects.

(10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.

(11) A useless device that is designed to produce audible or visible effects or audible or visible effects, and that contains less than one-quarter grain of explosive mixture.

(12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible or visible effects.

(13) A cylindrical fountain that consists of one or more tubes and that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(14) A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(15) Any product traditionally utilized in traditional or religious ceremonies.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.10.010 was formerly codified as LCOTCC §4.66

GNC.4.10.020 Sale of Fireworks Unlawful

It is unlawful for any person, without a permit and providing that the physical characteristics of fireworks complies with 16 CFR 1507, to sell any fireworks within the

Reservation other than those fireworks designated herein, provided that this prohibition shall not apply to duly authorized public displays.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.020 was formerly codified as LCOTCC §4.67

GNC.4.10.030 Permit Required to Sell or Display Fireworks

It is unlawful for any person or entity, other than the Tribe or an instrumentality of the Tribe, to engage in the retail sale of, or sell any fireworks, or to hold, conduct, or engage in a public display of fireworks within the Reservation without first having obtained a valid permit issued pursuant to the provisions of this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.030 was formerly codified as LCOTCC §4.68

GNC.4.10.040 Permit Fees

The annual fee for a "seller's permit" for the sale of fireworks as may be authorized under this Ordinance, shall be such an amount as may be determined by the Tribal Governing Board from time to time. The fee for a "public display permit" for the public display of fireworks shall be such an amount as may be determined by the Tribal Governing Board from time to time.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.040 was formerly codified as LCOTCC §4.69

GNC.4.10.050 Issuance—Nontransferable—Voiding

Each seller's permit issued under this Ordinance shall be for only one retail outlet. The Tribal Governing Board reserves the right to limit the number of permits issues for the sale or public display of fireworks. Each seller's permit issued shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable. Each public display permit issued shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is a violation of this Ordinance and shall void the permit granted in addition to all forfeiture provisions contained herein.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.050 was formerly codified as LCOTCC §4.70

GNC.4.10.060 Application for Public Display Permit

Applications for a permit to conduct a public display of fireworks shall be made to the Tribal Governing Board. Applicants shall meet all qualifications and requirements of this Ordinance and display that fire and safety requirements have been met.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.060 was formerly codified as LCOTCC §4.71

GNC.4.10.070 Application for Seller's Permit—Conditions for Issuance

Applications for seller's permits shall be made to the Tribal Governing Board. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. The Tribal Governing Board may assign to a tribal official, agent, or employee, responsibility to review applications and grant permits. Seller's permits shall be issued only to applicants meeting the following conditions:

(a) The retailer or person in charge and responsible for the retail operation shall be 21 years of age or older, of good moral character, and of demonstrated responsibility.

(b) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Ordinance.

(c) The permit holder's location or place of business shall be only in those areas or zones within the Reservation where commercial activities are authorized under applicable zoning laws and/or land use plan(s).

(d) The applicant shall promptly remove a temporary fireworks stand and clean up all debris from the site of the stand in a reasonable amount of time.

(e) Those individuals not possessing a permit shall not engage in any regulated activity hereunder until such time as an application for a permit is made and the permit is issued.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.070 was formerly codified as LCOTCC §4.72

GNC.4.10.080 Standards for Temporary Stands

The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(a) Temporary fireworks stands shall be constructed in a safe manner ensuring the safety of attendants and patrons.

(b) No temporary fireworks stand shall be located within 50 feet of any other building, nor within 250 feet of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(c) All such stands shall have accessible fire extinguishers.

(d) All weeds, grass, and combustible material, within 25 feet of the stand, shall be cleared from the location of the stand.

(e) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than 50 feet.

(f) Each stand shall have a person who is 18 years old or older in attendance at all times the stand is stocked.

(g) No person shall discharge any fireworks within 250 feet of the exterior walls of any temporary fireworks stand.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.10.080 was formerly codified as LCOTCC §4.73

GNC.4.10.090 Standards for Public Fireworks Displays

All public fireworks displays shall conform to the following minimum standards and conditions:

(a) A permit must be obtained from the Tribal Governing Board. The permit shall include the name of the applicant and his or her address, the exact location, date, and time of the proposed display, and the general nature of the display.

(b) A drawing shall be submitted showing a plan view of the fireworks discharge site and the surrounding area within a 500-foot radius. The drawing shall include all structures, fences, barricades, streets, fields, streams, and other significant factors that may be subject to ignition.

(c) All combustible debris and trash shall be removed from the area of discharge for a distance of 300 feet in all directions.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.10.090 was formerly codified as LCOTCC §4.74

GNC.4.10.100 Reckless Discharge or Use Prohibited

It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.100 was formerly codified as LCOTCC §4.75

GNC.4.10.110 Insurance

The Tribe may require proof of liability of insurance by a permittee to address injuries to third parties arising from the actions of the permittee.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.110 was formerly codified as LCOTCC §4.76

GNC.4.10.120 Hold Harmless

All permits issued under this Ordinance shall require the holder of the permit to indemnify and hold harmless the Tribe, Tribal Entities, and Tribal Officials from all liability arising from the actions of the permittee and/or the issuance of the permit by the Tribe.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.120 was formerly codified as LCOTCC §4.77

GNC.4.10.130 Enforcement

The Lac Courte Oreilles Fire Chief or his or her designee and the Lac Courte Oreilles Tribal Police Department are authorized to enforce all provisions of this Ordinance and in addition to civil remedies, may revoke any permit issued pursuant to this Ordinance upon any failure or refusal of the permittee to comply with the provisions of this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.130 was formerly codified as LCOTCC §4.78

GNC.4.10.140 Penalty

Any person, firm, or corporation violating any provision of this Ordinance shall forfeit not more than Ten Thousand Dollars (\$10,000.00) or an amount equivalent to the actual damage caused by the misconduct of such person or entity.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.140 was formerly codified as LCOTCC §4.79

GNC.4.10.150 Severability

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.10.150 was formerly codified as LCOTCC §4.80

**Subchapter GNC.4.11
Animal Control Ordinance**



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Part 1
General Provisions



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GNC.4.11.010 Title

This ordinance shall be referred to as the LCO Animal Control Ordinance.

Prior Codifications

* §GNC.4.11.010 was formerly codified as VIII LCOTCL §I

GNC.4.11.020 Authority

LCO possesses the inherent sovereign authority to regulate its territory, and Article V, Section 1(s) of the LCO constitution empowers the tribal governing board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers."

Prior Codifications

* §GNC.4.11.020 was formerly codified as VIII LCOTCL §I

GNC.4.11.030 Purpose

The presence of animals, including without limitation, dogs and cats that are not licensed, vaccinated, properly cared for or which are permitted to run at large through the LCO reservation, including fee land situated therein, has a direct effect on the health, welfare and security of LCO and its members. It is the intent of this ordinance to:

(a) Maintain law and order and protect the safety and welfare of all persons on the LCO reservation;

(b) Confer upon the department all authority necessary to administer and enforce this ordinance within the LCO reservation, including fee land situated therein; and

(c) Regulate and impose obligations upon all owners and keepers of animals and other persons, including without limitation, those situated on fee land within the LCO reservation.

Prior Codifications

* §GNC.4.11.030 was formerly codified as VIII LCOTCL §I

GNC.4.11.040 Jurisdiction

Consistent with Subchapter TCT.2.3, the LCO tribal court shall have jurisdiction over cases arising under this ordinance limited solely by the constitution and federal law.

Prior Codifications

* §GNC.4.11.040 was formerly codified as VIII LCOTCL §I

GNC.4.11.050 Construction

This ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted, provided it shall not restrict or apply to the taking of game under any code regulating hunting, fishing and trapping of live animals within the LCO reservation; and except as the context may indicate otherwise, shall not be construed to restrict the department, the LCO Law Enforcement Department, or any other law enforcement department or agency from which the department has sought assistance, from exercising the authority or fulfilling the duties prescribed by this ordinance.

Prior Codifications

* §GNC.4.11.050 was formerly codified as VIII LCOTCL §I

GNC.4.11.060 Severability

If any provision of this ordinance, or the application thereof to any person, legal entity or circumstance, is held invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this ordinance.

Prior Codifications

* §GNC.4.11.060 was formerly codified as VIII LCOTCL §I

GNC.4.11.070 Repealer

This ordinance supersedes all prior animal control laws, codes, ordinances or regulations of LCO.

Prior Codifications

* §GNC.4.11.070 was formerly codified as VIII LCOTCL §I

GNC.4.11.080 Definitions

Any term not defined in Subchapter GNC.4.9 shall be given its ordinary meaning, and the below terms shall have the following meanings, except where the context indicates otherwise:

(a) "adequate shelter" means a structure, which other than an opening for egress and ingress, is completely enclosed and which is large enough to allow the animal to stand and turn comfortably;

(b) "animal" means any living creature, except for a human being, which differs from plants in the capacity for spontaneous movement and rapid motor response to stimulation;

(c) "confine" means keep an animal indoors or in a secure enclosure, which prevents escape and contact with other animals and people;

(d) "cruel treatment" means inflicting physical injury, by other than accidental means, which causes or creates a substantial risk of death, disability, disfigurement or impairment of bodily functions to any animal;

(e) "dangerous animal" means any animal that without provocation bites or attacks any person or a domestic animal severely enough to break the skin, excluding:

(1) any animal that bites or attacks a person who knowingly trespasses on the property of the animal's owner or keeper;

(2) any animal that bites or attacks a person who knowingly provokes, antagonizes or inflicts cruel treatment on the animal; or

(3) any animal that is responding in a manner that a reasonable person would conclude was intended to protect a person who is the victim of an assault;

(f) "department" means the LCO Police Department and or the LCO Conservation Department;

(g) "director" means the director of the department;

(h) "domestic animal" means any tame animal that is habituated to live in or about people, including without limitation, domestic dogs and cats;

(i) "euthanize" means the humane destruction of an animal by a method that produces instantaneous unconsciousness and immediate death or painless loss of consciousness and death during such loss of consciousness;

(j) "keeper" means any person in possession of any animal or responsible for the custody or control of any animal;

(k) "LCO" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians;

(l) "LCO constitution" means the Amended Constitution and Bylaws of LCO;

(m) "LCO reservation" means all lands and waters within the exterior boundaries of the LCO reservation in Wisconsin, as established by Secretarial Order March 1, 1873, and any lands or waters or interests therein which may be acquired outside of the 1873 reservation by or on behalf of LCO, including the 1200 acres of Farm Services Administration land outside the 1873 reservation boundary held by the United States, except as may otherwise be provided by federal law;

(n) "neglected" means any animal that does not receive adequate food, water, shelter, medical care, exercise or supervision necessary for the welfare of the animal;

(o) "premises" means any secure building or fenced or enclosed area of sufficient strength and dimension to prevent escape, which is either owned by or to which the owner or keeper of the animal has permission from the owner to use;

(p) "public emergency" means any circumstance under which the department has determined to warrant that animals being confined;

(q) "rabies exposure" means when an animal has bitten or attacked a person or domestic animal severely enough to break the skin or any other situation in which saliva, central nervous system tissue or cerebral fluid of a potentially rabid animal enters an open, fresh wound or comes in contact with mucous membranes by entering the eye, mouth or nose.

(r) "running at large" means any animal not restrained in accordance with 396.14; and

(s) "wild or exotic animal" means any animal which is wild, fierce, naturally inclined to do harm or any animal that can normally be found in the wild state, and includes without limitation, the following:

(1) all dogs, including wolf, fox, coyote, dingo, jackal, wolf hybrids and all other members of the family, excluding domestic dogs;

(2) all cats, including lions, pumas, panthers, mountain lions, leopards, lynx, jaguars, ocelots, margays, tigers, wild cats and all other members of the family, excluding domestic cats;

(3) all bears, including grizzly bears, brown bears, black bears and all other members of the family;

(4) all weasels, including martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose and all other members of the family;

(5) all raccoons, including civets and all other members of the family;

- (6) all porcupines, including all other members of the family;
- (7) all skunks, including all other members of the family;
- (8) all snakes, including all venomous and constricting snakes, and all other members of the family;
- (9) all crocodiles, alligators, caimans, gavials and all other members of the family;
- (10) all venomous fish, piranha and similar fish;
- (11) all sea mammals; and
- (12) any other animal which the department, in its discretion, determines to be a wild or exotic animal.

(Res. No. 2022-116)

Prior Codifications

- * §GNC.4.11.080 was formerly codified as VIII LCOTCL §I

Part 2
Licensing and Vaccination



GNC.4.11.090 Licensing 2-1
GNC.4.11.100 Vaccination 2-1

GNC.4.11.090 Licensing

(a) All owners and keepers of any dog or cat within the LCO reservation shall ensure that such dog or cat is licensed through the department. Any such license shall be effective for the period of one (1) year.

(b) The licensing fee shall be Twenty and 00/100 Dollars (\$20.00) for each one (1) year period. The fee shall be Ten and 00/100 Dollars (\$10.00) for any dog or cat if the owner or keeper presents written proof that the animal has been neutered or spayed.

(c) The department shall issue a license upon payment of the licensing fee and presentment of a certificate evidencing current rabies vaccination, as required under Section GNC.4.11.100.

(d) The department shall maintain records of all licenses issued and shall mail all licensees written notice of license expiration at least sixty (60) days prior to any such expiration; provided however any failure to provide notice hereunder shall not relieve any person of any obligation under this ordinance.

(Res. No. 2022-116)

Prior Codifications

* §GNC.4.11.090 was formerly codified as VIII LCOTCL §II

GNC.4.11.100 Vaccination

(a) All owners and keepers of any dog or cat over the age or four (4) months within the LCO reservation, and any other animal designated by the department, in its discretion, as being susceptible to rabies, shall ensure that such dog, cat or other animal is properly vaccinated against rabies, at all times, including without limitation, that any such dog, cat or other animal is revaccinated prior to the date the current vaccination expires as stated on the certificate of vaccination, or in the event a certificate of vaccination does not specify a date of expiration, within three (3) years after the most recent vaccination.

(b) All owners and keepers shall maintain, at all times, certificates evidencing current rabies vaccinations, and shall present such certificates to the department upon request.

Prior Codifications

- * §GNC.4.11.100 was formerly codified as VIII LCOTCL §II

**Part 3
Restraint of Animals**



GNC.4.11.110 Collar or Harness 3-1
 GNC.4.11.120 Dogs in Heat 3-1
 GNC.4.11.130 Dogs Running at Large 3-1
 GNC.4.11.140 Mandatory Leashing 3-1
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GNC.4.11.110 Collar or Harness

All owners and keepers of any dog or cat within the LCO reservation shall ensure that such dog or cat wears, at all times, a properly fitting collar or harness of sufficient strength and condition to restrain the animal. The owner or keeper shall securely attach the license and rabies vaccination tags to such collar or harness.

Prior Codifications

* §GNC.4.11.110 was formerly codified as VIII LCOTCL §III

GNC.4.11.120 Dogs in Heat

All owners and keepers of any dog in heat within the LCO reservation shall ensure that any such dog is confined except for planned breeding.

Prior Codifications

* §GNC.4.11.120 was formerly codified as VIII LCOTCL §III

GNC.4.11.130 Dogs Running at Large

All owners and keepers of any dog within the LCO reservation shall ensure that such dog does not run at large within the LCO reservation.

Prior Codifications

* §GNC.4.11.130 was formerly codified as VIII LCOTCL §III

GNC.4.11.140 Mandatory Leashing

All owners and keepers of any dog within the LCO reservation shall ensure that such dog is physically restrained by a leash of not more than ten (10) feet in length, at all times, provided however:

- (a) a dog may be unleashed within premises, as defined in Section GNC.4.11.080(o);
- (b) a dog may be maintained on a secure chain or leash of sufficient strength, which

is attached to an immovable object to prevent escape; or

(c) a dog may be unleashed on the property of the owner or keeper, or on property to which the owner or keeper has obtained the permission of the owner to use, if supervised by a person sixteen (16) years of age or older who is able to maintain control of the dog and who in fact controls the dog.

Prior Codifications

* §GNC.4.11.140 was formerly codified as VIII LCOTCL §III

GNC.4.11.150 Nuisance

(a) All owners and keepers of any animal within the LCO reservation shall ensure that the animal is properly supervised and does not create a nuisance through excessive and loud barking, howling or making other sounds common to its species or otherwise causes a nuisance.

(b) All owners and keepers of any animal within the LCO reservation shall maintain all structures, buildings, fenced or enclosed areas, yards and other areas in which any animal is kept in a clean and sanitary condition free from waste and objectionable odors and shall regularly dispose of all waste so not to attract or result in rodents, insects and disease.

Prior Codifications

* §GNC.4.11.150 was formerly codified as VIII LCOTCL §III

**Part 4
Animal Bites**



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GNC.4.11.160 Reporting

All owners and keepers of any animal within the LCO reservation that has bitten or attacked any person or domestic animal severely enough to break the skin or where rabies exposure may have occurred, and any person with first-hand knowledge of any such incident, shall immediately report any such incident to the department.

Prior Codifications

- * §GNC.4.11.160 was formerly codified as VIII LCOTCL §IV

GNC.4.11.170 Surrender of Animals

All owners and keepers of any animal within the LCO reservation that has bitten or attacked any person or domestic animal severely enough to break the skin or where rabies exposure may have occurred shall produce and surrender such animal to the department upon demand, and the department may proceed pursuant applicable Sections of this ordinance.

Prior Codifications

- * §GNC.4.11.170 was formerly codified as VIII LCOTCL §IV

**Part 5
Treatment of Animals**



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GNC.4.11.180 Food, Water and Health

All owners and keepers of any animal shall ensure that the animal is provided with sufficient food that provides adequate nutrition for the species and clean, potable water to maintain the animal in good health and with necessary and appropriate health care.

Prior Codifications

* §GNC.4.11.180 was formerly codified as VIII LCOTCL §V

GNC.4.11.190 Shelter

(a) All owners and keepers of any animal shall ensure that:

(1) all animals kept indoors are kept a building that is maintained at a temperature compatible with the health of the animal and is adequately ventilated at all times;

(2) all animals kept outdoors have access to adequate shelter, as defined in Section GNC.4.11.080(a), which is appropriate to the local climatic conditions for the species concerned;

(3) all shelters for any animal are structurally sound and maintained in good repair.

(b) No person shall confine any animal in a vehicle under such conditions that endanger the health or well-being of the animal, including without limitation, confining the animal in a vehicle that is not adequately ventilated to ensure a temperature compatible with the health of the animal.

(c) No person shall unreasonably confine any animal in a fenced or enclosed area that lacks space adequate and appropriate for the species to have reasonable, freedom of movement.

(d) No person shall unreasonably maintain any animal on a chain, leash, rope or other restraint that is not of sufficient length to allow the animal to have reasonable freedom of movement.

Prior Codifications

* §GNC.4.11.190 was formerly codified as VIII LCOTCL §V

GNC.4.11.200 Cruel Treatment

No person shall intentionally treat any animal in a cruel and inhumane manner, including without limitation, exposing any animal to any known poisonous or controlled substance with the intent to harm, poison or kill the animal. This section shall not apply to:

(a) any person using a poisonous substance solely for the purpose of rodent or pest extermination; or

(b) any person inflicting physical injury on any animal if a reasonable person would conclude that such action was designed to protect any person from the threat of imminent physical injury or harm caused by the animal.

Prior Codifications

* §GNC.4.11.200 was formerly codified as VIII LCOTCL §V

GNC.4.11.210 Animal Fighting

(a) No person shall promote, permit, cause, aid or abet as a principal, agent, employ or spectator, or participate in the earnings from, or maintain or allow any place to be used for, any dogfight, cockfight, or other combat between animals or between animals and humans.

(b) No person shall own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

Prior Codifications

* §GNC.4.11.210 was formerly codified as VIII LCOTCL §V

GNC.4.11.220 Abandonment

No person shall abandon any animal.

Prior Codifications

* §GNC.4.11.220 was formerly codified as VIII LCOTCL §V

GNC.4.11.230 Reporting

Any person who injures or kills any domestic animal while operating any passenger vehicle shall immediately stop and report such injury or death to the owner of the animal. If

the identity of the owner is unknown, the person shall promptly report such injury or death to the department.

Prior Codifications

- * §GNC.4.11.230 was formerly codified as VIII LCOTCL §V

**Part 6
Impoundment**



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GNC.4.11.240 Authority to Impound

(a) The department has the authority to impound any animal in the following situations:

- (1) any dog or cat which is not licensed in violation of Section GNC.4.11.090;
- (2) any dog, cat or other animal which is not vaccinated in violation of Section GNC.4.11.100;
- (3) any dog or cat which is not wearing a collar or harness or tags in violation of Section GNC.4.11.190;
- (4) any dog which is running at large in violation of Section GNC.4.11.130 or not properly restrained or maintained as required under Section GNC.4.11.140;
- (5) any animal that has bitten or attacked any person or domestic animal severely enough to break the skin or where rabies exposure may have occurred;
- (6) any animal which is neglected, subjected to cruel treatment, animal fighting or abandoned;

(7) any animal which the department has reason to believe may be sick or diseased and presents a potential public health or safety hazard;

(8) any dangerous animal which is kept, maintained or harbored within the LCO Reservation in violation of Section GNC.4.11.300;

(9) any animal which is not confined within the premises of their owners or keepers during a public emergency in violation of Section GNC.4.11.280; and

(10) any wild or exotic animal which is kept, harbored or maintained within the LCO reservation not in accordance with Section GNC.4.11.330.

(b) The director shall have the authority to designate the place and manner in which animals are impounded.

(c) Following any impoundment, the director or his authorized agent shall notify the owner or keeper of the animal of its impoundment, or if the owner or keeper of the animal is unknown, the department shall make reasonable efforts to ascertain and to notify the owner or keeper of the impoundment.

Prior Codifications

* §GNC.4.11.240 was formerly codified as VIII LCOTCL §VI

GNC.4.11.250 Redemption of Animals

(a) The owner or keeper of an animal, other than a wild or exotic animal, quarantined animal or dangerous animal, which the department has impounded, may be redeemed upon payment to the department of all costs of impounding the animal, including without limitation, a daily impoundment fee set by the department, the cost of food and medical treatment, and other reasonable expenses incurred by the department.

(b) If the department has quarantined an animal, the owner or keeper of the animal may redeem it after the quarantine period, if the animal shows no signs of rabies or other contagious disease for which quarantine is required, upon payment to the department of all cost of impounding the animal, including without limitation, a daily impoundment fee set by the department, the cost of food and medical treatment, and other reasonable expenses incurred by the department, subject to other provisions of this ordinance.

(c) Any owner or keeper entitled to regain custody of an animal pursuant to the provisions of this ordinance who fails to do so within five (5) days following impoundment or expiration of the quarantine period, as applicable, including without limitation, making full payment of all costs of impounding the animal, shall have abandoned all legal rights and interests in the animal, and the department shall be entitled to proceed under Section GNC.4.11.340.

(d) If the department has impounded or quarantined an animal, and the owner or keeper has failed to comply with any requirement of this ordinance, including without limitation Sections 4.97 relating to licensing, 4.98 relating to vaccination and 4.99 relating to collar and harness, the animal shall only be redeemed if the owner or keeper has complied with any such requirement or has made arrangements to comply with any such requirement to the satisfaction of the department.

Prior Codifications

* §GNC.4.11.250 was formerly codified as VIII LCOTCL §VI

GNC.4.11.260 Disposition of Animals

(a) If any owner or keeper of an animal fails to properly regain custody of an animal impounded or quarantined by the department, or the animal is an exotic or wild animal for which no permit has been obtained under Section GNC.4.11.330 or a dangerous animal for which the right to appeal under Section GNC.4.11.390 has expired, the director or his authorized agent, in his discretion, may give or sell the animal to a suitable person, as determined by the department or euthanize the animal.

(b) The department may euthanize a sick or injured impounded or quarantined animal prior to the expiration of the redemption period if, in the opinion of the director, such action is necessary for the protection of the public health or to prevent unnecessary suffering of the animal. The director shall consult with qualified medical, environmental health or veterinary personnel prior to giving his opinion that such action is necessary. If known, the director shall notify the owner or keeper of the animal prior to any such disposition.

(c) Notwithstanding any other provision of this ordinance, including without limitation Section GNC.4.11.340(b), the department may euthanize any impounded or quarantined animal, at any time without prior notice to the owner or keeper, if the department concludes that the animal exhibits signs of rabies. The director shall consult with qualified medical, public health, or veterinary personnel prior to concluding that the animal exhibits signs of rabies.

Prior Codifications

* §GNC.4.11.260 was formerly codified as VIII LCOTCL §VI

GNC.4.11.270 Quarantine

(a) All owners and keepers shall ensure that an animal is quarantined for a period of not less than ten (10) days when:

(1) the animal has bitten or attacked a person or domestic animal severely enough to break the skin or where rabies exposure may have occurred;

(2) the department has reason to believe the animal may be sick or diseased and presents a potential public health or safety hazard; or

(3) until such time as a veterinarian certifies that the animal is no longer capable of transmitting the disease when the animal has been diagnosed with any contagious disease.

(b) The owner or keeper of a quarantined animal shall keep the animal confined, as defined in Section GNC.4.11.250(c) for the quarantine period. The department shall have the authority to observe the animal at any place of confinement during the period of quarantine.

(c) The owner or keeper of a quarantined animal shall not sell, give away or permit the animal to be removed from the premises of the owner or keeper without written permission of the director during the quarantine period.

(d) The owner or keeper of any animal that has bitten or attacked any person or domestic animal severely enough to break the skin, or where rabies exposure may have occurred, shall not kill, destroy or dispose of the animal during the quarantine period. If the owner or keeper of a quarantined animal is unable to control the animal or confine the animal during the quarantine period, he shall notify the department, and the department shall pick up and impound the animal for the quarantine period.

(e) If the animal dies or exhibits symptoms of rabies, other illness, or other unusual behavior while quarantined, the owner or keeper shall immediately notify the department, and the department shall pick up and impound the animal for the quarantine period, as applicable.

(f) The department, in its discretion, may impound or quarantine an animal if the department believes:

(1) that the owner or keeper will not or has not properly quarantined the animal or will or has denied the department access to the animal; or

(2) in the case of any dog, cat or other animal, the owner or keeper failed to vaccinate the animal for rabies, and the department determines that it is necessary for it to quarantine the animal.

Prior Codifications

* §GNC.4.11.270 was formerly codified as VIII LCOTCL §VI

GNC.4.11.280 Public Emergency

(a) The department may require that animal owners or keepers confine their animals within the premises of their owners or keepers during a public emergency requiring such confinement.

(b) The department shall post written notice at the LCO administration building and the department to notify animal owners and keepers that it has declared a public emergency.

Prior Codifications

* §GNC.4.11.280 was formerly codified as VIII LCOTCL §VI

GNC.4.11.290 Animal "Round Up"

The department shall post written notice at the LCO Administration building and the department at least five days prior to conducting any round up of dogs running at large or animals not maintained in accordance with this ordinance. The written notice shall include the anticipated date of the round up and instructions for re-claiming animals after the round up.

Prior Codifications

* §GNC.4.11.290 was formerly codified as VIII LCOTCL §VI

GNC.4.11.300 Dangerous Animals

No person shall keep, maintain or harbor a dangerous animal within the LCO reservation, provided, the department has provided the person with written notice, either personally or by certified mail declaring an animal to be a dangerous animal, subject to the right of appeal under Section GNC.4.11.390.

Prior Codifications

* §GNC.4.11.300 was formerly codified as VIII LCOTCL §VI

GNC.4.11.310 Interference with Department

No person shall knowingly interfere with or hinder the restrict the department, the LCO Law Enforcement Department, or any other law enforcement department or agency from which the department has sought assistance, in the exercise of authority or performance of duties under this ordinance.

Prior Codifications

* §GNC.4.11.310 was formerly codified as VIII LCOTCL §VI

GNC.4.11.320 Taking of Animals

No person may take or carry away any animal belonging to another person with the intent to deprive the owner or keeper permanently of possession of the animal without the consent of the owner or keeper.

Prior Codifications

* §GNC.4.11.320 was formerly codified as VIII LCOTCL §VI

GNC.4.11.330 Wild or Exotic Animals

No person may keep, harbor or maintain a wild or exotic animal within the LCO reservation, provided however, any person who does so on the effective date of this chapter shall:

(a) surrender such animal to a functioning humane society;

(b) transfer ownership of such animal to a person in another jurisdiction in accordance with the laws thereof, or

(c) apply for and obtain a permit for such animal from the department, subject to the right of appeal under Section GNC.4.11.390, in accordance with and subject to the following:

(1) he shall file a permit application with the department within forty five (45) days of the effective date of this chapter, which shall at a minimum include the species, age, sex of such animal and the plan for the housing and containing such animal;

(2) the department shall review and may approve the application if the director is satisfied that the plan for housing and containing the animal will prevent escape and such animal does not present a serious risk to public health or safety; and

(3) he shall acknowledge in writing that upon the death, sale, adoption, transfer or disposal of such animal, the animal will not be replaced.

Prior Codifications

* §GNC.4.11.330 was formerly codified as VIII LCOTCL §VI

GNC.4.11.340 Authority

The department shall have the primary responsibility and the authority to enforce this ordinance, subject to any necessary budgetary approval of the tribal governing board. In addition, the LCO Law Enforcement Department and any other law enforcement department or agency from which the department has sought assistance shall have the authority to enforce this ordinance in the performance of their duties. The authority of the department shall include without limitation to:

(a) contract with or operate, or both animal shelters;

(b) contract with, select, train, hire or retain officers to enforce the provisions of this ordinance;

(c) investigate complaints regarding any animal within the LCO reservation;

(d) issue citations for any violation of this ordinance;

(e) take, confine, impound, quarantine and euthanize any animal found in violation of this ordinance, in accordance with the provisions of this ordinance;

(f) use all means reasonably necessary to perform the obligations under this ordinance, including without limitation, to use deadly force against any animal that is reasonably believed to pose an imminent threat to the safety or wellbeing of any person or animal;

(g) periodically conduct "round ups" of all dogs that are running at large or animals not maintained in accordance with this ordinance;

(h) to enter upon any open property, excluding premises, within the LCO reservation while in pursuit of any animal kept, harbored or maintained not in accordance with this ordinance;

(i) declare any animal to be a dangerous animal after investigation, subject to the right of appeal under Section GNC.4.11.390;

(j) issue or refuse to issue permits for wild or exotic animals in accordance with Section GNC.4.11.330, subject to the right of appeal under Section GNC.4.11.390; and

(k) to exercise reasonable discretion and judgment in enforcing and applying any provision of ordinance, including without limitation, electing to waive application of this ordinance to any owner or keeper of any animal within the LCO reservation, if the department is satisfied that such owner or keeper has satisfied a similar requirement of another jurisdiction (for example, a dog or cat is licensed and vaccinated in accordance with Wisconsin law).

Prior Codifications

* §GNC.4.11.340 was formerly codified as VIII LCOTCL §VI

GNC.4.11.350 Issuance of Citations

Any person authorized to enforce this ordinance may issue a citation when any violation of this ordinance occurs in the presence of the enforcement authority or the enforcement authority investigating a report of a violation of this ordinance finds probable cause to believe that a violation occurred, provided the citation shall state:

(a) the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered) and the section(s) of this ordinance that were violated;

(b) the date of the initial hearing before the LCO tribal court which shall be no sooner than ten (10) days after service of the notice;

(c) the amount of the fine which may be paid by the violator to the LCO tribal court in order to avoid the initial hearing; and

(d) that failure to pay the amount of the fine or appear before the LCO tribal court on the date set for hearing, shall result in entry of a default judgment and an award of relief in accordance with this ordinance.

Prior Codifications

* §GNC.4.11.350 was formerly codified as VIII LCOTCL §VI

GNC.4.11.360 Forfeiture

(a) If the LCO tribal court finds that a violation of this ordinance has been committed, it may impose a forfeiture of not more than Five Thousand Dollars and 00/100 (\$5000.00). The LCO tribal court may also reduce or suspend any fine on the condition that the owner or keeper fully comply with the order, or if the animal's owner or keeper proves that the violation has been corrected (for example, that the dog's vaccinations have been brought up to date).

(b) If the LCO tribal court finds that a violation of this ordinance has been committed and that it is likely that the owner or keeper of the animal will not provide proper care and supervision for the animal so as to prevent further violations of this ordinance, it may order the department to remove the animal from the owner or keeper and dispose of it in accordance with this ordinance and may order that the person be prohibited from owning or keeping animals in the future.

(c) In addition to the civil penalties imposed under this ordinance, the LCO tribal court may order the owner or keeper of an animal to pay any actual damages for injury to the person, property or resources of any person.

(d) Any person who fails to pay any fine assessed by the LCO tribal court within thirty (30) days after the fine has been assessed and who fails to make other arrangements regarding payment of the fine, shall owe, in addition to the fine imposed, ten dollars (\$10.00) for each thirty (30) day period that the fine is overdue.

Prior Codifications

* §GNC.4.11.360 was formerly codified as VIII LCOTCL §VI

GNC.4.11.370 Disposition of Funds

All civil penalties collected by the LCO tribal court, which are in excess of court costs and reasonable administrative fees, and all licensing fees collected by the department, shall be placed into a separate account each month to be used by the department to enforce and administer this ordinance.

Prior Codifications

- * §GNC.4.11.370 was formerly codified as VIII LCOTCL §VI

GNC.4.11.380 Private Causes of Action

Nothing in this ordinance shall prevent any person from bringing a private cause of action for damages to his person or property caused by any animal; provided however, any employee, agent, officer or representative of the department, the LCO Law Enforcement Department or any other department or agency from which the department has sought assistance, shall be immune to the extent provided for under applicable law.

Prior Codifications

- * §GNC.4.11.380 was formerly codified as VIII LCOTCL §VI

GNC.4.11.390 Appeal of Decision of Department

(a) Any owner or keeper of any animal who disagrees with a decision of the department made under Section GNC.4.11.300 relating to designation of a dangerous animal; or Section GNC.4.11.330 relating to a permit for a wild or exotic animal may challenge the decision of the department in LCO tribal court by filing a written appeal within three (3) days of the date the department communicated its decision to the owner or keeper, excluding weekends, holidays and other days in which the LCO tribal court is closed.

(b) The LCO tribal court shall uphold any decision of the department subject to appeal unless it finds by preponderance of the evidence that such decision was arbitrary, capricious, an abuse of discretion or otherwise was contrary to the ordinance.

Prior Codifications

- * §GNC.4.11.390 was formerly codified as VIII LCOTCL §VI

**Subchapter GNC.4.12
Lac Courte Oreilles Trespass Ordinance**



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GNC.4.12.010 Title

This ordinance shall be referred to as the Lac Courte Oreilles On Reservation Trespass Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.12.010 was formerly codified as VIII LCOTCL §4.120

GNC.4.12.020 Authority

LCO possesses the inherent sovereign authority to regulate its territory, and Article V, Section 1(s) of the LCO Constitution empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers."

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.12.020 was formerly codified as VIII LCOTCL §4.121

GNC.4.12.030 Purpose

It is the policy of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe") to reserve consent for use of its land and to impose civil penalties for trespass on Tribal lands and waters. The purpose of this Ordinance is to effect that policy.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.030 was formerly codified as VIII LCOTCL §4.122

GNC.4.12.040 Jurisdiction

Consistent with Subchapter TCT.2.3, the LCO tribal court shall have jurisdiction over cases arising under this ordinance limited solely by the constitution and federal law.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.040 was formerly codified as VIII LCOTCL §4.123

GNC.4.12.050 Construction

This ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted; and except as the context may indicate otherwise, shall not be construed to restrict LCO Law Enforcement, or any other law enforcement department or agency from which LCO Law Enforcement has sought assistance from exercising the authority or fulfilling the duties prescribed by this ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.050 was formerly codified as VIII LCOTCL §4.124

GNC.4.12.060 Severability

If any provision of this ordinance, or the application thereof to any person, legal entity or circumstance, is held invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.060 was formerly codified as VIII LCOTCL §4.125

GNC.4.12.070 Repealer

This ordinance supersedes all prior trespass laws, codes, ordinances or regulations of the Tribe.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.12.070 was formerly codified as VIII LCOTCL §4.126

GNC.4.12.080 Definitions

Any term not defined in this section shall be given its ordinary meaning, and the below terms shall have the following meanings, except where the context indicates otherwise:

(a) Tribal Lands means any land or interest in land within the exterior boundaries of the Reservation, which is held in trust by the United States of America for the Tribe or its members, or held by the Tribe in fee or in any other form.

(b) Tribal Waters means waters within the exterior boundaries of the Reservation that are landlocked by Tribal land that have no public access or easements.

(c) LCO Law Enforcement means Officers of LCO Conservation Department and LCO Police Department and any other law enforcement department or agency from which LCO Law Enforcement has sought assistance.

(d) Non-Member means any person who is not enrolled as a member of the Tribe.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.12.080 was formerly codified as VIII LCOTCL §4.127

GNC.4.12.090 Trespass

A person commits the infraction of trespass if he or she:

(a) enters upon the real property of another that is posted to prohibit trespassing, is fenced or contains obvious outward signs of habitability without permission of the owner or the owner's agent;

(b) any Non-Member who enters Tribal Lands or Tribal Waters that are not specifically posted as open to the public.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.12.090 was formerly codified as VIII LCOTCL §4.128

GNC.4.12.100 Interference with Department

No person shall knowingly interfere with or hinder or restrict LCO Law Enforcement in the exercise of authority or performance of duties under this ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.100 was formerly codified as VIII LCOTCL §4.129

GNC.4.12.110 Enforcement Authority

LCO Law Enforcement shall have the primary responsibility and authority to enforce this ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.110 was formerly codified as VIII LCOTCL §4.130

GNC.4.12.120 Issuance of Citations

Any person authorize to enforce this ordinance may issue a citation when any violation of this ordinance occurs in the presence of the enforcement authority or the enforcement authority investigating a report of a violation of this ordinance finds probable cause to believe that a violation occurred, provided the citation shall state:

(a) the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered) and the section(s) of this ordinance that were violated;

(b) the date of the initial hearing before the LCO tribal court which shall be no sooner than ten (10) days after service of the citation;

(c) the amount of the fine which may be paid by the violator to the LCO tribal court in order to avoid the initial hearing; and

(d) that failure to pay the amount of the fine or appear before the LCO tribal court on the date set for hearing, shall result in entry of a default judgment and an award of relief in accordance with this ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.120 was formerly codified as VIII LCOTCL §4.131

GNC.4.12.130 Forfeiture

(a) If the LCO tribal court finds that a violation of this ordinance has been committed, it may impose a forfeiture of not more than Five Thousand Dollars and 00/100 (\$5,000.00).

(b) In addition to the civil penalties imposed under this ordinance, the LCO tribal court may order actual damages for injury to the property or resources of any person that occurred as a result of the trespass.

(c) Any person who fails to pay any fine assessed by the LCO tribal court within thirty (30) days after the fine has been assessed and who fails to make other arrangements regarding payment of the fine, shall owe in addition to the fine imposed, Ten Dollars and 0/100 (\$10.00) for each thirty (30) day period that the fine is overdue.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

- * §GNC.4.12.130 was formerly codified as VIII LCOTCL §4.132

**Subchapter GNC.4.13
Off Reservation Territory Ordinance**



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GNC.4.13.010 Title

This Ordinance shall be referred to as the Lac Courte Oreilles Off Reservation Territory Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.010 was formerly codified as VIII LCOTCL §4.133

GNC.4.13.020 Findings

The Governing Board finds as follows:

(a) The Governing Board and its members, pursuant to Tribal Bylaws, Article I, Section 4, have the "duty ... to promote the general welfare of the ... [Tribe] and to carry out the provisions and purposes of this Constitution and Bylaws."

(b) The "duty ... to promote the general welfare of the ... [Tribe]" includes enacting ordinances to protect the Tribe's property, including Off Reservation Territory.

(c) Persons have sought permission to enter Off Reservation Territory for a variety of purposes, including studying, enjoying or harvesting natural resources.

(d) Persons have unlawfully entered Off Reservation Territory and have caused damage to natural resources, including illegally harvesting game.

(e) Enactment of this Ordinance is necessary to fulfill the duty of the Governing Board and its members to promote the general welfare of the Tribe by restricting access to Off Reservation Territory.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.020 was formerly codified as VIII LCOTCL §4.134

GNC.4.13.030 Authority

(a) The Tribal Constitution defines the territory of the Tribe to include: "[A]ll lands and waters within the exterior boundaries of the Lac Court Oreilles Reservation in Wisconsin established by Secretarial Order of March 1, 1873, and any lands or waters or interests therein which may be acquired outside the reservation by or on behalf of the band" Article I, Section 1.

(b) The Tribe's jurisdiction "extend[s] to all lands and waters within the territory of the band...Constitution, Article I, Section 2.

(c) The Tribal Constitution empowers the Governing Board to enact this Ordinance and to apply the same within the jurisdiction of the Tribe, as follows:

(1) "To manage, lease, permit or otherwise deal with tribal lands, interests in tribal lands or assets, or to purchase lands or to otherwise acquire lands, or interests in lands within or without the reservation." Article V, Section 1, (f).

(2) "To regulate, by enactment of ordinances, the conduct of business within the territory of the band, including the power to impose taxes or license fees upon members and non-members doing business within the reservation." Article V, Section 1, (n).

(3) "To regulate, by enactment of ordinances, the activities of hunting, fishing, ricing, trapping or boating by members and non-members of all lands and waters described in Article I, Section 1, including the power to impose license fees or taxes upon members and non-members for such activities." Article V, Section 1, (p).

(4) "To establish a tribal court for the purpose of enforcing tribal ordinance[s], to appoint game wardens, and to provide by appropriate ordinances, for fines, imprisonment or confiscation of equipment for violation of such ordinances." Article V, Section 1, (q).

(d) The Tribe is empowered to set conditions on entry to Off Reservation Territory and retains the inherent sovereign authority to regulate the conduct of tribal members and other persons, including nonmembers, who enter into consensual relationships with the Tribe or tribal members; or who threaten the health, welfare, economic security or political integrity of the Tribe.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.030 was formerly codified as VIII LCOTCL §4.135

GNC.4.13.040 Purpose

The purposes of this Ordinance are as follows:

(a) To exercise the authority granted to the Governing Board under the Tribal Constitution and the inherent sovereign power of the Tribe to set conditions on entry and regulate activities within Off Reservation Territory;

(b) To fulfill the duty of the Governing Board and its members "to promote the general welfare of the band" by protecting Off Reservation Territory and natural resources; and

(c) To impose forfeitures on persons who violate this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.040 was formerly codified as VIII LCOTCL §4.136

GNC.4.13.050 Definitions

For the purposes of this Ordinance, the below terms are defined.

(a) "Department" means the Lac Courte Oreilles Conservation Department.

(b) "Director" means the Director of the Department.

(c) "Governing Board" means the governing body of the Tribe as set forth in Article III, Section 1 of the Tribal Constitution.

(d) "Nonmember" means any person other than a tribal member.

(e) "Off Reservation Territory" means all lands or waters or interests therein which may be acquired outside of the Reservation by or on behalf of the Tribe, including any trust land or leasehold interest held by the Tribe in any restricted or trust allotment, to the extent consistent with applicable law.

(f) "Person" means any natural person, including a tribal member or nonmember; any government, or agency thereof (excluding the Tribe), any firm, limited partnership, limited liability partnership, co-partnership, partnership, joint venture, association, corporation, subchapter S corporation, limited liability company, estate, business trust, receiver, or any other group or combination acting as a unit in the plural as well as the singular.

(g) "Reservation" means the Lac Courte Oreilles Reservation as defined in Article I, Section 1 of the Tribal Constitution.

(h) "Tribal Constitution" means the Amended Constitution of the Tribe.

(i) "Tribal Court" means the Lac Courte Oreilles Tribal Court.

(j) "Tribal Member" means an enrolled member of the Tribe.

(k) "Tribe" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, a sovereign nation, along with its agencies, divisions, programs, entities, enterprises, including any corporation that is owned by the Tribe and is chartered by the Tribe or the federal government.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.050 was formerly codified as VIII LCOTCL §4.137

GNC.4.13.060 Posting Required

(a) The Director shall ensure that all Off Reservation Territory is posted with signs, which shall state:

"NO TRESPASSING. THIS PROPERTY IS UNDER THE JURISDICTION OF THE LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS OF WISCONSIN. ENTRY ONLY AS PERMITTED UNDER TRIBAL CODE. VIOLATORS WILL BE PROSECUTED IN TRIBAL COURT."

(b) The Director shall ensure:

(1) that signs are posted in locations so as to provide fair notice that trespassing is prohibited;

(2) that signs are repaired or replaced as necessary; and

(3) that compliance with this Ordinance is monitored.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.060 was formerly codified as VIII LCOTCL §4.138

GNC.4.13.070 Permit Required

(a) Except as provided in Section GNC.4.13.080, no person shall enter upon any Off Reservation Territory which has been posted without first obtaining a permit from the Department.

(b) No person shall knowingly:

(1) act beyond the scope or violate the terms or conditions of a permit issued by the Department under this Ordinance;

(2) remove, destroy, alter, obscure, or otherwise disturb any sign posted on Off Reservation Territory under this Ordinance;

(3) interfere with, hinder or restrict the Department or any other agency in the exercise of authority or performance of any duty under this Ordinance; or

(4) aide, abet or assist another person in the commission of a violation of this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.070 was formerly codified as VIII LCOTCL §4.139

GNC.4.13.080 Exceptions to Permit

The following persons may enter upon Off Reservation Territory without first obtaining a permit from the Department:

(a) Any agent or officer of a law enforcement agency with jurisdiction over the Off Reservation Territory who is acting within the scope of his duties and authority.

(b) Any tribal member for the purpose of exercising a treaty right subject to and in accordance with applicable law; provided the tribal member notifies the Department prior to entering upon Off Reservation Territory for such purpose.

(c) Any person who is acting within the scope of his duties and authority pursuant to or in fulfillment of a contract with the Tribe.

(d) Any other person permitted to enter upon Off Reservation Territory under applicable law.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.080 was formerly codified as VIII LCOTCL §4.140

GNC.4.13.090 Enforcement

(a) The Department, Tribe's Law Enforcement Department, and any other law enforcement department, or any agency from which an agency of the Tribe has sought assistance, are empowered to enforce this Ordinance.

(b) A citation may be issued when any violation of this Ordinance occurs in the presence of the enforcement authority or when probable cause exists to believe that a violation occurred, provided the citation shall state:

(1) the location, date and time of violation (or the date and time the violation was discovered) and the Section(s) of this Ordinance violated;

(2) the date of the initial hearing before the Tribal Court which shall be no sooner than ten (10) days after service of the citation;

(3) the amount of the fine which may be paid by the violator to the Tribal Court in order to avoid the initial hearing; and

(4) that failure to pay the amount of the fine or appear before the Tribal Court on the date set for hearing shall result in entry of a default judgment and an award of relief pursuant to this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.090 was formerly codified as VIII LCOTCL §4.141

GNC.4.13.100 Forfeiture

(a) If the Tribal Court finds that a violation of this Ordinance has been committed, it may impose a forfeiture of not more than Five Thousand Dollars and 00/100 (\$5,000.00) per violation. The Tribal Court may develop a bond schedule for violations of this Ordinance.

(b) In addition to forfeiture, the Tribal Court may order restitution for injury to property arising from the violation of this Ordinance.

(c) Any person who fails to pay any forfeiture within thirty (30) days after entry of judgment by the Tribal Court and who fails to make or comply with other arrangements to pay the fine, shall owe the additional amount of Ten Dollars and 00/100 (\$10.00) for each thirty (30) days period that the fine remains unpaid.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.100 was formerly codified as VIII LCOTCL §4.142

GNC.4.13.110 Administration

(a) The Director shall develop the permit and any other forms necessary or convenient for the administration of this Ordinance.

(b) The Director shall obtain the approval of the Governing Board prior to granting or denying a permit to enter Off Reservation Territory.

(c) The Director shall charge a fee to enter Off Reservation Territory as directed by the Governing Board.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.110 was formerly codified as VIII LCOTCL §4.143

GNC.4.13.120 Construction

This Ordinance shall be liberally construed to give full effect to the purposes for which it was enacted.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.120 was formerly codified as VIII LCOTCL §4.144

GNC.4.13.130 Severability

If any provision of this Ordinance, or the application thereof to any person, is held invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or any other provision of this Ordinance.

(Res. No. 07-45; Res. No. 16-25; Res. No. 12-07; Res. No. 05-07; Res. No. 06-53)

Prior Codifications

* §GNC.4.13.130 was formerly codified as VIII LCOTCL §4.145

Chapter GNC.5
School Attendance (Truancy) Code of the Lac Courte Oreilles Band of Lake Superior Chippewa
Indians



GNC.5.1 Introduction GNC.5.1-1
GNC.5.2 Definitions GNC.5.2-1
GNC.5.3 General GNC.5.3-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to require the regular attendance at school of all school age person which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice ..."

Subchapter GNC.5.1 Introduction



GNC.5.1.010 Title..... GNC.5.1-1
 GNC.5.1.020 Authority..... GNC.5.1-1
 GNC.5.1.030 Purpose..... GNC.5.1-1
 GNC.5.1.040 Effective Date..... GNC.5.1-2
 GNC.5.1.050 Interpretation GNC.5.1-2
 GNC.5.1.060 Severability and Non-Liability GNC.5.1-2
 GNC.5.1.070 Repeal of Inconsistent Tribal Ordinances GNC.5.1-3

GNC.5.1.010 Title

This ordinance shall be known as the School Attendance (Truancy) Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.1.010 was formerly codified as VIII LCOTCL §5.101

GNC.5.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and providing for the maintenance of law and order and the administration of justice ..."

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.1.020 was formerly codified as VIII LCOTCL §5.102

GNC.5.1.030 Purpose

It is the purpose of this ordinance to require the regular attendance at school of all school age person living on the Lac Courte Oreilles Reservation and all tribal persons who

live off of the Lac Courte Oreilles Reservation and attend school within the Hayward Community School District and the Winter School District.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

- * §GNC.5.1.030 was formerly codified as VIII LCOTCL §5.103

GNC.5.1.040 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

- * §GNC.5.1.040 was formerly codified as VIII LCOTCL §5.104

GNC.5.1.050 Interpretation

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to the regular attendance at school of all school age persons subject to this ordinance;

(b) Shall be liberally construed in favor of the Tribe;

(c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(d) The Tribe by adoption of this ordinance does not waive its sovereign immunity in any respect.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

- * §GNC.5.1.050 was formerly codified as VIII LCOTCL §5.105

GNC.5.1.060 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

- * §GNC.5.1.060 was formerly codified as VIII LCOTCL §5.106

GNC.5.1.070 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

- * §GNC.5.1.070 was formerly codified as VIII LCOTCL §5.107

**Subchapter GNC.5.2
Definitions**



GNC.5.2.010 General Definitions GNC.5.2-1

GNC.5.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"Truant"** is understood by this ordinance to mean any enrolled person who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester. Acceptable excuses are the following:

(1) Excused by the school for temporary physical or mental condition that impairs school attendance. Any request by a parent or guardian to excuse a person under this subsection for more than ten days, cumulative, in any one semester must be accompanied by a written note from a physician or other appropriate professional caregiver justifying the absence.

(2) Written permission of up to ten days per semester for absence by parent or guardian prior to absence, and

(3) Verified instruction in home-based educational program.

(4) Students who have reached their 18th birthdays are permitted to originate their own excuse for an absence only if they are not living with their parents/guardians or the parent/guardian has provided permission for the student to originate their own excuse in writing. The student is still bound by the same set of acceptable reasons in (a)(1).

(b) **"Habitual Truant"** means any enrolled pupil who is absent from school without an acceptable excuse under the previous subsection for part or all of 5 or more days on which school is held during a school semester.

(c) **"Dropout"** means a person 18 years or younger who ceased to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under Section GNC.5.3.030(a) of this ordinance.

(d) **"School Age Person"** is any person enrolled in school from the age of five years old through the age of 18 or until high school graduation. When a student turns 18 they are still subject to all school policies until the end of the current school year.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.2.010 was formerly codified as VIII LCOTCL §5.201

**Subchapter GNC.5.3
General**



GNC.5.3.010 Truancy GNC.5.3-1
 GNC.5.3.020 Habitual Truancy GNC.5.3-1
 GNC.5.3.030 Dropouts GNC.5.3-3
 GNC.5.3.040 Failure to Cause a Person to Attend School Regularly GNC.5.3-3
 GNC.5.3.050 Payments of Forfeitures GNC.5.3-4

GNC.5.3.010 Truancy

(a) If the Lac Courte Oreilles Tribal Court determines that a person is truant, the Tribal Court may order one or more of the following dispositions.

(1) An order for the school age person to attend school.

(2) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the caregivers, the parents or guardians of the person, or both.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.3.010 was formerly codified as VIII LCOTCL §5.301

GNC.5.3.020 Habitual Truancy

(a) If the Tribal Court determines that a person is truant, the Tribal Court may order one or more of the following dispositions:

(1) An order for the person to attend school.

(2) An order for the person to attend an education program as prescribed by the Tribal Court.

(3) An order for the person to participate in counseling or a supervised work program or other community service as deemed appropriate by the Tribal Court. The cost of any such counseling, supervised work program or other community service work

may be assessed against the person, the caregivers, the parents or the guardian, or both.

(4) An order placing the person under formal or informal supervision of a tribal agency, program, department or a suitable adult, under conditions prescribed by the Tribal Court and subject to the limitations of placement, if necessary, as prescribed in Chapter DMR.1 – Children's Code.

(5) A forfeiture of not more than \$100.00 plus costs, for a first violation, or a forfeiture of not more than \$500.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to the limitation that such fines may be levied only against a juvenile of twelve (12) years of age or older and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardians or the person, or both. An order for the person's parent, caregiver, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(6) Notification of the truancy to any jurisdiction or agency issuing licensing of any nature to the person, including but not limited to, the Wisconsin Department of Transportation. The Tribal Court may present to the licensing agency, a recommendation of a suspension of privileges licensed, including the case of any license to operate a motor vehicle, or obtain a license to so operate, the suspension of privileges granted by Wisconsin Statute §§ 343.05(2)(a)(2 or (4)(b)(1) or comparable provisions in any other jurisdiction.

(7) Refer the habitually truant person who continues to be truant to the Sawyer County District Attorney for delinquency charges pursuant to Wis. Stat. §938.12. Filing information on a person does not preclude concurrent prosecution of the person's parent or guardian for failure to cause a person to attend school.

(8) Refer the person to the LCO Indian Child Welfare Department to evaluate and determine whether familial problems may be the cause of the person's truancy and or make appropriate referrals necessary.

(9) Any other reasonable conditions consistent with this ordinance, including a curfew, restrictions as to going to or remaining on specified premises and restrictions for associating with other persons and adults.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.3.020 was formerly codified as VIII LCOTCL §5.302

GNC.5.3.030 Dropouts

(a) If the Tribal Court determines that a person is a dropout, the court may:

(1) Notification of the drop-out to any jurisdiction or agency issuing licensing of any nature to the person, including but not limited to, the Wisconsin Department of Transportation. The Tribal Court may present to the licensing agency, a recommendation of a suspension of privileges licensed, including the case of any license to operate a motor vehicle, or obtain a license to so operate, the suspension of privileges granted by Wisconsin Statute §§ 343.05(2)(a)(2) or (4)(b)(1) or comparable provisions in any other jurisdiction.

(2) The Court may order for the person to attend school.

(3) Order a forfeiture of not more than \$500 plus costs, to be assessed against the drop-out, the parents or guardians, or both.

(4) Refer the case of the habitually truant person who continues to be truant to the Sawyer County District Attorney for delinquency charges pursuant to Wis. Stat. §938.12. Filing information on a person does not preclude concurrent prosecution of the person's parent or guardian for failure to cause a person to attend school.

(5) Refer the person to the LCO Indian Child Welfare department to evaluate and determine whether familial problems may be the cause of the person's truancy and if so, make appropriate referrals as necessary.

(6) Any other reasonable conditions consistent with this ordinance, including a curfew, restrictions as to going to or remaining on specified premises and restrictions for associating with other juveniles and adults.

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.3.030 was formerly codified as VIII LCOTCL §5.303

GNC.5.3.040 Failure to Cause a Person to Attend School Regularly

(a) Unless the school age person is excepted or excused under Section GNC.5.2.010(a) of this ordinance, or has graduated from high school, any person having under his or her control a school age person, shall cause the school age person to attend school regularly during the full period and hours, religious and traditional holidays excepted, that the tribal, public, or private school in which the school age person should be enrolled, is in session until the end of the school term, quarter or semester of the school year in which the school age person becomes 18 years of age.

(b) This section does not apply to:

(1) A school age person is exempted or excused under Section GNC.5.2.010(a) of this ordinance, or has graduated from high school

(2) To a person who proves that he or she is unable to comply with the requirements of this section because of the disobedience of the school age person, in which case the action shall be dismissed, and the Tribal Court may appoint a guardian ad litem relative to such school age person or make such reference to the Indian Child Welfare Department, Law Enforcement or other authority as deemed appropriate.

(3) If the Court determines that a person is guilty of Failure to Cause a Person to Attend School Regularly, the Court may:

(A) Order a forfeiture of not more than \$500 plus costs to be assessed against the person unless contrary to Section GNC.5.3.030(a) and Section GNC.5.3.020(a)(5).

(B) Refer the case to the Sawyer County District Attorney for criminal charges pursuant to Wis. Stat. §§ 948.40 or 948.45

(Res. No. 2022-85; Res. No. 15-75)

Prior Codifications

* §GNC.5.3.040 was formerly codified as VIII LCOTCL §5.304

GNC.5.3.050 Payments of Forfeitures

(a) If a person is obligated to pay a forfeiture fails to do so within 60 calendar days, the Lac Courte Oreilles Attorney General's Office may institute an action requesting:

(1) An order for the payer to show cause why he or she should not be subject to contempt of court.

(2) A finding of Contempt of Court may result in incarceration.

(Res. No. 2022-85)

Title VEH
Vehicles



VEH.3 Vehicle Licensing and Registration Code of the Lac Courte Oreilles Band of Lake Superior Chippewa IndiansVEH.3-1
VEH.4 All-Terrain Vehicles and Utility Task VehiclesVEH.4-1

Chapter VEH.3
Vehicle Licensing and Registration Code of the Lac Courte Oreilles Band of Lake Superior
Chippewa Indians



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VEH.3.2 Registration Periods..... VEH.3.2-1
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VEH.3.9 Antique Motor Vehicles; Registration, Plates, Use..... VEH.3.9-1
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Subchapter VEH.3.1 Motor Vehicle Registration Ordinance



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VEH.3.1.010 Title

This ordinance shall be referred to as the LCO Motor Vehicle Registration Ordinance.

Prior Codifications

* §VEH.3.1.010 was formerly codified as LCOTCC §5.1

VEH.3.1.020 Authority

LCO possesses the inherent sovereign authority to regulate its territory, and Article V, Section 1(s) of the LCO constitution empowers the tribal governing board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers."

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians has the power and authority to license and register motor vehicles pursuant to its sovereign jurisdiction status and a reciprocal registration exemption agreement that has been entered into between the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and the State of Wisconsin with parallel laws and statutes for cross administration and enforcement purposes.

Prior Codifications

* §VEH.3.1.020 was formerly codified as LCOTCC §5.2

VEH.3.1.030 Purpose and Policy

The purpose of this law is to create a system for enrolled Lac Courte Oreilles members to register their motor vehicles exclusively with the Lac Courte Oreilles Reservation, for the issuance of Lac Courte Oreilles license plates to qualified applicants, and for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to regulate the public roads within its

sovereign jurisdiction. It is the policy of this law to clarify jurisdictional sovereignty and to generate revenue for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

Prior Codifications

- * §VEH.3.1.030 was formerly codified as LCOTCC §5.3

VEH.3.1.040 Jurisdiction

Consistent with Chapter 103 of the LCO Tribal Court Code of 2004, the LCO tribal court shall have jurisdiction over cases arising under this ordinance limited solely by the constitution and federal law.

Prior Codifications

- * §VEH.3.1.040 was formerly codified as LCOTCC §5.4

VEH.3.1.050 Construction

This ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

Prior Codifications

- * §VEH.3.1.050 was formerly codified as LCOTCC §5.5

VEH.3.1.060 Severability

If any provision of this ordinance, or the application thereof to any person, legal entity or circumstance, is held invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this ordinance.

Prior Codifications

- * §VEH.3.1.060 was formerly codified as LCOTCC §5.6

VEH.3.1.070 Repealer

This ordinance supersedes all prior animal control laws, codes, ordinances or regulations of LCO.

Prior Codifications

- * §VEH.3.1.070 was formerly codified as LCOTCC §5.7

VEH.3.1.080 Definitions

Any term not defined in this section shall be given its ordinary meaning, and the below terms shall have the following meanings, except where the context indicates otherwise:

(a) **"Automobile"** means any of the following:

(1) A motor vehicle designed and used primarily for carrying persons but which does not come within the definition of a motor bus, motorcycle, or moped.

(2) A motor vehicle capable of speeds in excess of 30 miles per hour on a dry, level, hard surface with no wind, designed and built to have at least three (3) wheels in contact with the ground, a power source as an integral part of the vehicle, a curb weight of at least 1,600 pounds, and a passenger and operator area with sides permanently enclosed with rigid construction and a top which may be convertible.

(b) "**Department**" means the Licensing Department, or any other department of the Lac Courte Oreilles Tribe, with the authority to implement, administer and enforce this law.

(c) "**Gross weight**" means the weight of the vehicle equipped for service plus the weight which the vehicle is carrying as load.

(d) "**Highway**" means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel.

(e) "**Identification number**" means the numbers, letters or combination of numbers and letters assigned by the manufacturer of a vehicle or vehicle part or by the department and stamped upon or affixed to a vehicle or vehicle part for the purpose of identification.

(f) "**Junked**" means dismantled for parts or scrapped.

(g) "**Lac Courte Oreilles**" means Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.

(h) "**Lac Courte Oreilles Tribal member**" means a member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians who is on the Lac Courte Oreilles enrollment list and has a Lac Courte Oreilles enrollment number.

(i) "**Moped**" means any of the following motor vehicles capable of speeds of not more than 30 miles per hour with a 150-pound rider on a dry, level hard surface with no wind, excluding a tractor, a power source as an integral part of the vehicle and a seat for the operator:

(1) A bicycle-type vehicle with fully operative pedals for propulsion by human power and an engine certified by the manufacturer at not more than 50 cubic centimeters or an equivalent power unit.

(2) A Type 1 motorcycle with an automatic transmission and an engine certified by the manufacturer at not more than 50 cubic centimeters or an equivalent power unit.

(j) "**Motorcycle**" means a motor vehicle, excluding a tractor or an all-terrain vehicle, which is capable of speeds in excess of 30 miles per hour with a 150-pound rider on a dry,

level, hard surface with no wind, with a power source as an integral part of the vehicle, and which meets the conditions under par. (a) or (b):

(1) Type 1 is a motor vehicle which meets either of the following conditions:

(A) Is designed and built with two (2) wheels in tandem and a seat for the operator, and may be modified to have no more than three (3) wheels by attaching a sidecar to one of the side the wheels in tandem without changing the location of the power source.

(B) Is designed and built to have no more than three (3) wheels, seating for the operator and no more than three (3) passengers, and does not have the operator area enclosed.

(2) Type 2 is a motor vehicle designed and built to have at least three (3) wheels in contact with the ground, a curb weight of less than 1,500 pounds, and a passenger and operator area with sides permanently enclosed with rigid construction and a top which may be convertible.

(k) "**Motor home**" means motor vehicle designed to be operated upon a highway for use as a temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home.

(l) "**Nonresident**" means a person not a resident of the Reservation.

(m) "**Other jurisdiction**" or "**another jurisdiction**" means territory other than the Lac Courte Oreilles Reservation, including the State of Wisconsin and any State other than Wisconsin.

(n) "**Owner**" means a person who holds the legal title of a vehicle, except that if legal title is held by a secured party with the immediate right of possession of the vehicle vested in the debtor, the debtor is the owner for the purposes of this law.

(o) "**Personal identifier**" means a name, street address, post office box number or 9digit extended zip code.

(p) "**Person with a disability that limits or impairs the ability to walk**" means any person with a disability as defined by the federal Americans with Disabilities Act of 1990, 42 USC 12101 et. seq., so far as applicable, or any persons who meet the following conditions:

(1) Cannot walk 200 feet or more without stopping to rest.

(2) Cannot walk without the use of, or assistance from, another person or

brace, cane, crutch, prosthetic device, wheelchair or other assistive device.

(3) Is restricted by lung disease.

(4) Uses portable oxygen.

(5) Has cardiac condition to the extent that functional limitations are present.

(6) Is severely limited in the ability to walk due to an arthritic neurological or orthopedic condition.

(7) Has a degree of disability equal to that specified in pars. (1) to (6).

(q) "**Reservation**" means the Reservation of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and includes all lands within the exterior boundaries and any other lands owned by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(r) "**Special interest vehicle**" means a motor vehicle of any age which has not been altered or modified from original manufacturing specifications and, because of its historic interest, is being preserved by hobbyists.

(s) "**Truck**" means every motor vehicle 10,000 pounds or under designed, used or maintained primarily for the transportation of property.

(t) "**Vehicle**" means every device in, upon or which any person or property is or may be transported or drawn upon a highway, except railroad trains. A snowmobile shall not be considered a vehicle except for purposes made specifically applicable by this law.

Prior Codifications

- * §VEH.3.1.080 was formerly codified as LCOTCC §5.8

Subchapter VEH.3.2 Registration Periods



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VEH.3.2.020 Registration Periods for Private Automobiles	VEH.3.2-1
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VEH.3.2.040 Biennial Registration.....	VEH.3.2-3
VEH.3.2.050 Vehicles Exempt from Registration	VEH.3.2-3

VEH.3.2.010 Regular Automobiles

(a) All automobiles customarily owned by Lac Courte Oreilles tribal members shall be registered with the department.

(b) The annual fee for each automobile registered in this jurisdiction and under this section shall be \$75.00 for two plates.

Prior Codifications

- * §VEH.3.2.010 was formerly codified as LCOTCC §5.9

VEH.3.2.020 Registration Periods for Private Automobiles

(a) All automobiles shall be registered by the department according to a monthly series system of registrations.

(b) There are established 12 registration periods, each to be designated by a calendar month and to start on the first day of such month and end on the last day of the twelfth month from the date of commencing. The department shall so administer the monthly series system of registration so as to distribute the work of registering automobiles as uniformly as practicable throughout the calendar year.

(c) All automobiles subject to registration under monthly series systems shall be registered by the department for a period of twelve consecutive calendar months except as follows:

- (1) If the applicant holds current registration plates which were removed from an automobile which the applicant no longer owns or which has been junked, is no longer used on the highways or has been registered as a special interest vehicle or a reconstructed, replica, street modified or homemade vehicle and the plates were issued under the monthly series system, the department shall register the automobile which is the subject of the application for the remainder of the unexpired registration period.

(2) If the applicant does not hold current registration plates under the circumstances described in par. (a) and the application is an original rather than renewal application, the department may register the automobile which is subject to the application for such period or part thereof as the department determines will help to equalize the registration and renewal work load of the department.

(d) All registration fees, applicable fines, penalties, forfeitures and assessments shall be paid to and retained by the department, for the operation of such department.

(e) The department shall be responsible for the administration of this ordinance and delegated authority to draft policies to allow for the full implementation of this law.

(f) All applications and registrations shall be retained by the department for one year after the application has been submitted or registration filed, thereafter all applications and registrations shall be retained by Lac Courte Oreilles for seven years.

Prior Codifications

* §VEH.3.2.020 was formerly codified as LCOTCC §5.10

VEH.3.2.030 Special Registration Period for Vehicles Other than Private Automobiles

(a) The department shall require that any vehicle other than private automobiles, be registered according to the monthly series system of registration prescribed by this section.

(b) There are established 12 registration periods, each to be designed by a calendar month and to start on the first day of such month and end on the last day of the 12th month from the date of commencing. The department shall so administer the monthly series system of registration as to distribute the work of registration throughout the calendar year.

(c) All vehicles subject to registration under the monthly series system under this section shall be registered by the department for a period of 12 consecutive calendar months except as follows:

(1) If the applicant holds registration plates which were removed from a vehicle under section 22 and the plates were issued under the monthly series system, the department shall register a replacement vehicle of the same type and gross weight which is the subject of the application for the remainder of the unexpired registration period.

(2) If the applicant does not hold current registration plates under the circumstances described in par. (1) and the application is an original rather than renewal application, the department may register the vehicle which is the subject of the application for such period or part of a period as the department determines will help to equalize the registration and renewal workload of the department.

(d) Section VEH.3.11.010 applies to any vehicles registered according to the monthly series system under this section.

Prior Codifications

- * §VEH.3.2.030 was formerly codified as LCOTCC §5.11

VEH.3.2.040 Biennial Registration

The following vehicles shall be registered on a biennial basis:

(a) A motorcycle or moped, as specified in Section VEH.3.7.040. The registration period for a motorcycle or moped begins on May 1 of an even-numbered year and ends on April 30 of the next even numbered year.

Prior Codifications

- * §VEH.3.2.040 was formerly codified as LCOTCC §5.12

VEH.3.2.050 Vehicles Exempt from Registration

A vehicle even though operated on a highway of the Reservation, is exempt from registration when such vehicle is:

- (a) Operated in accordance with the provisions exempting nonresident or foreign registered vehicles from registration, or
- (b) A farm tractor used exclusively in agricultural operations, including threshing, or used exclusively to provide power to drive other machinery, or to transport from job to job machinery driven by such tractor; or
- (c) A trailer or semi-trailer used exclusively for the transportation of farm machinery, implements, produce or supplies on a farm or between farms; or
- (d) A fork-lift truck, a specially constructed road or truck tractor used for shunting trailers or semi-trailer used exclusively for the transportation of farm machinery, implements, produce or supplies on a farm or between farms; or
- (e) A trailer or camping trailer having a gross weight of 3,000 pounds or less and not used for hire or rental; or
- (f) A trailer not operated in conjunction with a motor vehicle; or
- (g) A new motor vehicle being operated only across a highway from point of manufacture or assembly; or
- (h) A piece of road machinery.

Prior Codifications

- * §VEH.3.2.050 was formerly codified as LCOTCC §5.13

Subchapter VEH.3.3 Application for Registration



VEH.3.3.010 Applications in General	VEH.3.3-1
VEH.3.3.020 Original Applications	VEH.3.3-1
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VEH.3.3.040 Renewal Applications.....	VEH.3.3-2
VEH.3.3.050 Grounds for Refusing Registration.....	VEH.3.3-3

VEH.3.3.010 Applications in General

(a) Application for original registration and for renewal of registration shall be made to the department upon forms prescribed by it and shall be accompanied by the required fee.

(b) The forms for application for original registration and for renewal of registration shall be provided by the department and shall include a place for an applicant or registrant under this chapter to designate that the applicant's or registrant's name, street address, post-office box number and 9-digit extended zip code may not be disclosed, a statement indicating the effect of making such a designation and a place for an applicant or registrant who made a designation under this subsection to reverse the designation.

Prior Codifications

* §VEH.3.3.010 was formerly codified as LCOTCC §5.14

VEH.3.3.020 Original Applications

(a) Applications for original registration of a vehicle shall contain the following information:

(1) The name of the owner.

(2) A description of the vehicle, including make, model, identification number and any other information which the department may reasonably require for proper identification of the vehicle.

(3) Such further information as the department may reasonably require to enable it to determine whether the vehicle is by law entitled to registration or to enable it to determine the proper registration fee for the vehicle.

(b) The department may accept an application and complete registration of a vehicle when the evidence of ownership is held by a nonresident lien holder or for other reasons not immediately available if the department is satisfied as to ownership of the vehicle. The

title fee shall be collected at the time of registration and retained even though certificate of title is not issued.

Prior Codifications

* §VEH.3.3.020 was formerly codified as LCOTCC §5.15

VEH.3.3.030 Applicants Under 18

If the applicant for a certificate of registration is under 18 years of age, the application shall be accompanied by a statement made and signed by either of the applicant's parents, if such parent has custody of the minor; or if neither parent has custody, then by the person having custody, stating that the applicant has the signer's consent to register the vehicle in the applicant's name. The signature on the statement shall not impute any liability for the negligence or misconduct of the applicant while operating such motor vehicle on the highways. Any person who violates this section may be required to forfeit not more than \$200.

Prior Codifications

* §VEH.3.3.030 was formerly codified as LCOTCC §5.16

VEH.3.3.040 Renewal Applications

(a) Applications for renewal of registration shall contain the information required in Section VEH.3.3.010(a) for original applications, or such parts thereof as the department deems necessary to assure the proper registration of the vehicle. The department may require that applications for renewal of registration be accompanied by the certificate of title issued for the vehicle only when the true ownership or proper registration of the vehicle is in doubt and cannot be resolved from records maintained by the department.

(b) At least 30 days prior to the expiration of a vehicle's registration, the department shall mail to the last-known address of the registrant a notice of the date upon which the registration must be renewed and an application form for renewal of registration.

(1) The application form or an accompanying document shall include a list of any unpaid citations for nonmoving traffic violations, or any violations of administrative rules of the department, or parking violations, entered against the registrant which remains unpaid.

(2) If there is a citation for any nonmoving traffic violation entered against the registrant which is unpaid, he or she shall be notified that the vehicle may not be registered until the citation is paid or the registrant appears in court to respond to the citation.

Prior Codifications

* §VEH.3.3.040 was formerly codified as LCOTCC §5.17

VEH.3.3.050 Grounds for Refusing Registration

The department shall refuse registration of a vehicle under any of the following circumstances:

(a) The vehicle owner applying for registration is not a Lac Courte Oreilles member, does not reside on the Reservation and/or the vehicle is not customarily kept on the Reservation.

(b) The required vehicle registration fee imposed by the department for a vehicle customarily kept on the Reservation and owned by an enrolled Lac Courte Oreilles Tribal member, has not been paid for the specific vehicle, and the department may refuse registration of a vehicle if such fees for the current period or for any previous period for which payment of a registration fee is required by law have not been paid on any other vehicles owned or leased by the applicant for registration.

(c) The applicant has failed to furnish any of the following:

(1) Unless exempted by rule of the document, the mileage disclosure from the most recent titled owner and of all subsequent non-titled owners of the vehicle.

(2) Other information or documents required by law or by the department pursuant to authority of law.

(3) Proof of Lac Courte Oreilles membership by enrollment card or number.

(d) Where the applicant does not hold a valid certificate of title and is not entitled to the issuance of a certificate of title.

(e) The applicant's registration has been suspended or revoked and such suspension or revocation still is in effect.

(f) The vehicle is exempt from registration and voluntary registration of the vehicle is not expressly authorized.

Prior Codifications

* §VEH.3.3.050 was formerly codified as LCOTCC §5.18

Subchapter VEH.3.4 Registration Plates



VEH.3.4.010 Design, Procurement and Issuance of Registration Plates.....VEH.3.4-1
 VEH.3.4.020 Application for and Issuance of Special PlatesVEH.3.4-1
 VEH.3.4.030 Personalized License Plates.....VEH.3.4-3

VEH.3.4.010 Design, Procurement and Issuance of Registration Plates

(a) The department upon registering a vehicle pursuant to Section VEH.3.2.010 and Section VEH.3.11.010 shall issue to the applicant two (2) registration plates for an automobile, truck, motor home, and one plate for other vehicles. The department upon registering a vehicle pursuant to any other section shall issue one plate unless the department determines that two (2) plates will better serve the interests of law enforcement.

(b) All registration plates shall have displayed upon them the following:

(1) The registration number assigned to the vehicle or owner. The registration number shall be composed of numbers or letters or both.

(2) The name "Lac Courte Oreilles"

(3) An indication of the period for which the specific plate is issued or the date of expiration of registration.

(c) In lieu of issuing a new plate upon each renewal of registration of a vehicle, the department may issue one insert tag, decal or other identification per vehicle to indicate the period of registration. The tag, decal or other identification shall be provided by the department and used only if the outstanding plate is in suitable condition for further usage.

Prior Codifications

* §VEH.3.4.010 was formerly codified as LCOTCC §5.19

VEH.3.4.020 Application for and Issuance of Special Plates

The department shall issue special plates as specified in this section under the following circumstances:

(a) Disabled Lac Courte Oreilles Residents. If any Lac Courte Oreilles Tribal member, who is a resident of the Reservation and who is registering or has registered an automobile or truck or a motor home, submits a statement once every four (4) years, from a physician

licensed to practice medicine in any state, or from a chiropractor licensed to practice chiropractic in any state, that the resident is a person with a disability that limits or impairs the ability to walk, the department shall procure, issue and deliver to the disabled person plates of a special design in lieu of plates which ordinarily would be issued for the vehicle, and shall renew the plates. The plates shall be so designed as to readily apprise law enforcement officers of the fact that the vehicle is owned by a nonveteran disabled person and is entitled to parking privileges specified in other laws. No charge in addition to the registration fee shall be made for the issuance or renewal of such plates.

(b) Disabled Lac Courte Oreilles Veterans. If any resident of the Reservation who is registering or has registered an automobile, truck, or a motor home submits a statement once every four (4) years, from the Lac Courte Oreilles Department of Veterans Affairs certifying to the department that the resident is, by reason of injuries sustained while in the active U.S. military service, a person with a disability that limits or impairs the ability to walk, the department shall procure, issue and deliver to the veteran, plates of a special design in lieu of the plates which ordinarily would be issued for the vehicle, and shall renew the plates. The plates shall be so designed as to readily apprise law enforcement officers of the fact that the vehicle is owned by a disabled veteran and is entitled to parking privileges specified in other laws. No charge in addition to the registration fee shall be made for the issuance or renewal of such plates.

(c) Lac Courte Oreilles Veteran/Congressional Medal of Honor. Upon application by any person awarded the congressional medal of honor and submission of proper proof thereof, the department shall issue special plates so designed as to indicate such award. No charge shall be made for the issuance of such plates which have a non-expiring registration period.

(d) Prisoner of War.

(1) Upon application to register an automobile or truck by any Lac Courte Oreilles Tribal member residing on the Reservation who was a member of any of the U.S. armed services and who was held as a prisoner of war during any of the conflicts described as World War II, Vietnam, Persian Gulf, Operation Desert (Shield) Storm, or in Grenada, Lebanon, Panama, Somalia or a Middle East crisis, and upon submission of a statement from the Lac Courte Oreilles Department of Veterans Affairs certifying that the person was a prisoner of war during one of the conflicts described, the department shall issue to the person a special plate which is colored (to be determined by the department) and which has the words "ex-prisoner of war" placed on the plate in the manner designated by the department.

(2) A person who maintains no more than one registration under this subsection at one time shall not be charged a fee for registration of the vehicle or issuance of plates.

(3) For each additional vehicle, a person who maintains more than one registration under this subsection at one time shall be charged a fee of \$15.00 for issuance of the plates in addition to the annual registration fee for the vehicle.

(4) If a registration plate has been issued to a person under par (1), upon application by the surviving spouse of the person, the department may permit the surviving spouse to retain the plate. If the plate has been returned to the department or surrendered to another state, the department may reissue the plate to the surviving spouse. The department shall charge an additional fee of \$15.00 to reissue the plate.

(5) The department shall charge a fee of \$15.00 for re-issuance of any plate under par. (4).

(e) Veterans Plates. The department shall issue special veterans/military plates under this subsection for the following authorized special groups.

(1) World War II veterans, Korean War veterans, Vietnam War veterans, Persian Gulf War veterans, Air force Retired, Air force Veteran, Army Retired, Army Veteran, U.S. Coast Guard, Marine Corps Retired, Marine Corps Veteran, Navy Retired, Navy Veteran, Purple Heart, Medal of Honor

(2) The annual registration fee shall be \$40.00. There shall be an additional fee of \$10.00 for the issuance of the initial registration of Special Veteran/Military plates. \$40.00 plus \$10.00 for the first plate. Renewal fees for these plates shall be \$40.00.

(3) If an individual in possession of special plates or of personalized plates under this section does not maintain membership in the applicable authorized special groups during the year which is not a plate issuance year the individual shall:

(A) Dispose of the special plates in a manner prescribed by the department;

(B) In addition to the regular application fee, pay a \$4 fee for the issuance of replacement plates; and

(C) Return the certificate of title to the department for correction.

Prior Codifications

* §VEH.3.4.020 was formerly codified as LCOTCC §5.20

VEH.3.4.030 Personalized License Plates

In this section, "personalized registration plates" means either of the following:

(a) A registration plate for a motor vehicle registered under this ordinance which displays a registration composed of letters or numbers, or both, requested by the applicant.

Personalized registration plates under this paragraph shall be of the same color and design as regular registration plates and shall consist of numbers or letters, or both, not exceeding 5 positions and not less than one position for a plate issued for a motorcycle or not exceeding 7 positions and not less than 1 position for all other plates.

(b) A registration plate of the same color and design as provided in Section VEH.3.4.020 for a vehicle specified under Section VEH.3.4.020 which displays the applicable symbol of the authorized special group to which the person belongs and a registration number composed of letters or numbers, or both, not exceeding 6 positions and not less than 1 position, requested by the applicant.

(c) The department shall issue personalized registration plates only upon request and if:

(1) The request and alternate thereto is received by the department in writing by mail by the 15th day of the month in which the vehicle is to be registered;

(d) The request is accompanied by the proper fee, an application for original or renewal vehicle registration and the proper registration fee;

(1) The requested combination of numbers or letters has not already been issued.

(e) In addition to the regular application fee provided for in this ordinance, the applicant for a personalized registration plate issued on an annual basis shall pay a fee of \$15 for the issuance of the plate and \$15 in each succeeding year to maintain the plate.

(f) Each personalized registration plate issued shall be reserved for the recipient in succeeding registration periods and shall not be duplicated for issuance to any other person if the recipient maintains the plate, unless the recipient authorizes the issuance of the plate to another person. If the recipient does not maintain the plate for two successive years which are not plate issuance years or if the recipient does not specifically request re-issuance of the personalized license plate by the end of the month in which the plate expires in a plate issuance year, the department may reissue the personalized registration plate to another applicant.

(g) If an individual in possession of a personalized registration plate does not maintain the personalized registration plate during a year which is not plate issuance year, the individual shall:

(1) Dispose of the personalized plate in a manner prescribed by the department;

(2) In addition to the regular application fee, pay a \$4 fee for the issuance of replacements plates; and

(3) Return the certificate of title to the department for correction.

(h) The department may refuse to issue any combination of letters or numbers, or both, which carry connotations offensive to Lac Courte Oreilles heritage or traditions, to good taste or decency, or which would be misleading or in conflict with the issuance of any other registration plates. All decisions of the department with respect to personalized registration plate applications shall be final and not subject to judicial review.

(i) The department may cancel and order the return of any personalized registration plates issued which contain any combination of letters or numbers, or both, which the department determines may carry connotations that are offensive to the Lac Courte Oreilles heritage or traditions, good taste and decency or which may be misleading. Any person ordered to return such plate shall either be reimbursed for any additional fees they paid for the plates for the registration year in which they are recalled, or be given at no additional cost replacement personalized registration plates, the issuance of which is in compliance with this ordinance. A person who fails to return personalized registration plates upon request of the department may be required forfeit not more than \$200.

Prior Codifications

- * §VEH.3.4.030 was formerly codified as LCOTCC §5.21

**Subchapter VEH.3.5
Display of Registration Plates**



VEH.3.5.010 Placement of Plates or Decals on Vehicles.....VEH.3.5-1

VEH.3.5.010 Placement of Plates or Decals on Vehicles

(a) Whenever two (2) registration plates are licensed for a vehicle, one (1) plate shall be attached to the front and one (1) to the rear of the vehicle. Whenever only one (1) registration plate is issued for a vehicle, the plate shall be attached to the rear.

(b) Any registration decal or tag issued by the department shall be placed on the rear registration plate of the vehicle in the manner directed by the department.

(c) Registration plates shall be attached firmly and rigidly in a horizontal position and conspicuous place. The plates shall at all times be maintained in a legible condition and shall be so displayed that they can be readily and distinctly read. Any peace officer may require the operator of any vehicle on which plates are not properly displayed to display such plates as required by this section.

(d) Any of the following may be required to forfeit not more than \$200:

(1) A person who operates a vehicle for which a current registration plate or insert tag has been issued without such plate or tag being attached to the vehicle.

(2) A person who operates a vehicle with a registration plate attached in a nonrigid or non-horizontal manner or in an inconspicuous place so as to make it difficult to see and read the plate;

(3) A person who operates a vehicle with the registration plate in an illegible condition due to the accumulation of dirt or other foreign matter.

Prior Codifications

* §VEH.3.5.010 was formerly codified as LCOTCC §5.22

**Subchapter VEH.3.6
Issuance of Replacement Plates**



VEH.3.6.010 Lost or Destroyed PlatesVEH.3.6-1
 VEH.3.6.020 Illegible Plates.....VEH.3.6-1
 VEH.3.6.030 Replacement PlatesVEH.3.6-1

VEH.3.6.010 Lost or Destroyed Plates

(a) Whenever a current registration plate is lost or destroyed, the owner of the vehicle to which the plate was attached shall immediately apply to the department for replacement. Except as further provided in this section, upon satisfactory proof of the loss or destruction of each plate and upon payment of a fee of \$4.00 for each plate, the department shall issue a replacement.

(b) Upon satisfactory proof of the loss or destruction of a specialized plate or a personalized plate issued under Section VEH.3.4.030, and upon payment of a fee of \$4.00 for each plate, the department shall issue a replacement.

Prior Codifications

* §VEH.3.6.010 was formerly codified as LCOTCC §5.23

VEH.3.6.020 Illegible Plates

Whenever a current registration plate becomes illegible, the owner of the vehicle to which the plate is attached shall apply to the department for a replacement. Upon receipt of satisfactory proof of illegibility, and upon payment of a fee of \$2 for each plate, the department shall issue a replacement. Upon receipt of a replacement plate, the applicant shall return the illegible plate to the department for recycling.

Prior Codifications

* §VEH.3.6.020 was formerly codified as LCOTCC §5.24

VEH.3.6.030 Replacement Plates

When issuing a replacement plate, the department may assign a new number and issue a new plate rather than a duplicate of the original if in its judgment that is in the best interests of economy or prevention of fraud. Upon receipt of a replacement plate, the applicant shall return the illegible plate to the department for recycling. Any person issued

replacement plates who fail to return the original plates to the department as required by this section may be required to forfeit not more than \$200.

Prior Codifications

- * §VEH.3.6.030 was formerly codified as LCOTCC §5.25

**Subchapter VEH.3.7
Department to Compile Registration Lists**



VEH.3.7.010 Maintaining Lists.....VEH.3.7-1
 VEH.3.7.020 Access to Lists.....VEH.3.7-1
 VEH.3.7.030 Limitations on DisclosureVEH.3.7-2
 VEH.3.7.040 Biennial Motorcycle FeesVEH.3.7-3
 VEH.3.7.050 Calculation of Registration Fees Relating to Gross Weight: Trucks.....VEH.3.7-3
 VEH.3.7.060 Motor HomesVEH.3.7-3

VEH.3.7.010 Maintaining Lists

(a) At intervals selected by the department, the department shall compile a list of registrations made during that interval pursuant to the monthly series system of registering automobiles. The list shall give the name and address of each registrant, the registration number assigned, and other identifying information as the department deems necessary.

(b) The department shall compile a list of new automobile and motor truck registrations. Registrations for other new vehicles may be included if deemed necessary by the department. Such lists shall be compiled at such intervals during the month as is deemed necessary by the department but the final list compiled each month shall include the listing of the last day of the month. Such list shall contain only those vehicles being registered for the first time after sale by a dealer. Such list shall contain the name and address of the owner, the make, body type, identification number of the vehicle, and the date of sale.

Prior Codifications

* §VEH.3.7.010 was formerly codified as LCOTCC §5.26

VEH.3.7.020 Access to Lists

(a) Upon request, the department shall distribute free of charge registration lists compiled under this section as follows:

(1) To the Lac Courte Oreilles Law Enforcement Department, one copy of each automobile registration list under Section VEH.3.7.010.

(2) To any other public officer or agency that provides in writing reasonable requests for the lists, one copy of each automobile registration list under Section VEH.3.7.010.

(b) Except as provided in Section VEH.3.7.030 public officers and agencies receiving free copies of registration lists under par. (a) shall keep such lists current and open to public inspection.

Prior Codifications

* §VEH.3.7.020 was formerly codified as LCOTCC §5.27

VEH.3.7.030 Limitations on Disclosure

(a) In providing copies under this section of any written information collected or prepared under this law which consists in whole or in part of the personal identifiers of 10 or more persons, the department may not disclose a personal identifier of any person who has made a designation that his or her personal identifiers may not be disclosed as provided in this section.

(b) Paragraph (a) does not apply to any of the following:

(1) A person receiving a registration list under Section VEH.3.7.020(a) and Section VEH.3.7.020(b) to perform a legally authorized function.

(2) A law enforcement agency

(3) An insurer authorized to write property and casualty insurance in the State of Wisconsin or an agent of the insurer, if the insurer or agent uses the personal identifier designated for non-disclosure under Section VEH.3.2.050(b) for purposes of issuing or renewing a policy and related underwriting, billing or processing or paying a claim.

(4) A person obtaining registration or title information for use in the conduct of a vehicle recall by the manufacturer of the vehicle or an agent of the manufacturer, if the person uses the personal identifiers designated for nondisclosure under Section VEH.3.2.050(b).

(c) Any person who has received under par. (b) a personal identifier of any person who has made a designation under Section VEH.3.2.050(b) shall keep the personal identifier confidential and may not disclose it except for a purpose applicable to that person under par. (b).

(1) Any person who willfully discloses a personal identifier in violation of this section may be subject to a fine of not more than \$500 for each violation.

(2) Any person who willfully requests or obtains a personal identifier from the department under this subsection under false pretenses may be required to forfeit not more than \$500 for each violation.

Prior Codifications

* §VEH.3.7.030 was formerly codified as LCOTCC §5.28

VEH.3.7.040 Biennial Motorcycle Fees

(a) For each motorcycle or moped with a curb weight of 1,499 pounds or less, which is designed for the transportation of persons rather than property, a biennial fee of \$23.00.

(1) Registration plates under this section expire on April 30 of even numbered years.

(2) One license plate is sent by the department of each cycle registered.

Prior Codifications

* §VEH.3.7.040 was formerly codified as LCOTCC §5.29

VEH.3.7.050 Calculation of Registration Fees Relating to Gross Weight: Trucks

(a) Unless otherwise noted, for each truck under this section, a yearly registration fee is to be determined on the basis of the maximum gross weight of the vehicle. Each vehicle registered will receive one license plate. Maximum gross weight shall be determined by adding together the weight in pounds of the vehicle when equipped to carry a load as a motor truck and the maximum load in pounds which the applicant proposes to carry on the vehicle when used as a motor truck.

(b) The following schedule shall be used in determining fees based on gross weight, provided that a surcharge of \$18 shall be added to and collected with the fee for each truck.

Maximum gross weight in pounds	Annual Fee
Not more than 4,500	\$ 75
Not more than 6,000	\$ 84
Not more than 8,000	\$ 106
Not more than 10,000	\$ 155
In excess of 10,000	Vary by vehicle weight

Prior Codifications

* §VEH.3.7.050 was formerly codified as LCOTCC §5.30

VEH.3.7.060 Motor Homes

(a) Unless otherwise noted, for each mobile home under this section, a yearly registration fee is to be determined on the basis of the gross weight of the mobile home. Each mobile home registered will receive one license plate.

(b) The following schedule shall be used in determining fees based on gross weight, provided that a surcharge of \$20 shall be added to and collected with the fee for each mobile home.

Gross weight in pounds:	Annual Fee:
Not more than 5,000	\$ 48.50
Not more than 8,000	\$ 55
Not more than 12,000	\$ 67.50
Not more than 16,000	\$ 80.50
Not more than 20,000	\$ 93.50
Not more than 26,000	\$ 106.50
More than 26,000	\$ 119.50

(c) Upon payment of the fee prescribed by law, a vehicle subject to registration on the basis of gross weight may be registered at a weight in excess of the manufacturer's maximum gross weight rating, but such registration does not exempt such vehicle from compliance with weight limitations imposed by law or by state, local or tribal authorities pursuant to authority of law.

Prior Codifications

- * §VEH.3.7.060 was formerly codified as LCOTCC §5.31

**Subchapter VEH.3.8
Special Registration Fees for Certain Vehicles**



VEH.3.8.010 Lac Courte Oreilles Government Vehicles.....VEH.3.8-1

VEH.3.8.010 Lac Courte Oreilles Government Vehicles

(a) A fee of \$5 shall be paid to the department for the original issuance of a non-expiring registration plate for any vehicle owned by the Lac Courte Oreilles and operated exclusively in service of the public.

(b) A fee of \$5 shall be paid to the department for the original issuance of a non-expiring registration plate for vehicles used by the Lac Courte Oreilles Law Enforcement Department exclusively in the performance of their duties.

Prior Codifications

* §VEH.3.8.010 was formerly codified as LCOTCC §5.32

**Subchapter VEH.3.9
Antique Motor Vehicles; Registration, Plates, Use**



VEH.3.9.010 Antique Motor VehiclesVEH.3.9-1

VEH.3.9.010 Antique Motor Vehicles

(a) Any person who is a resident of the Reservation and the owner or subsequent transferee of a motor vehicle which has a model year of 1945 or earlier and which has not been altered or modified from the original manufacturer's specifications may upon, application register the same as an antique vehicle upon payment of a fee of \$5, and be furnished non-expiring registration plates of a distinctive design, in lieu of the usual registration plates, which shall show in addition to the registration number that the vehicle is an antique. The registration shall be valid while the vehicle is owned by the applicant without payment of any additional fee. The vehicle shall only be used for special occasions such as display and parade purposes or for necessary testing, maintenance and storage purposes.

(b) Any person who registers an antique motor vehicle under par. (a) may furnish and display on the vehicle a historical plate from or representing the model year of the vehicle if the registration and plates issued by the department are simultaneously carried in the vehicle and are available for inspection.

(c) Unless inconsistent with this section, the provisions applicable to other motor vehicles apply to antique motor vehicles.

Prior Codifications

* §VEH.3.9.010 was formerly codified as LCOTCC §5.33

Subchapter VEH.3.10
Special Interest Vehicles: Registration, Plates, Use



VEH.3.10.010 Special Interest Vehicle/Collectors Special Vehicle VEH.3.10-1

VEH.3.10.010 Special Interest Vehicle/Collectors Special Vehicle

(a) Any person who is the owner of a special interest vehicle which is 20 or more years old at the time of making application for registration or transfer of title of the vehicle and who, has registered in Lac Courte Oreilles and uses for regular transportation at least one vehicle that has regular registration plates may upon application register the vehicle as a special interest vehicle upon payment of a fee under par. (b).

(b) The fee to register a collector vehicle under par. (a) is a one time fee of \$50.00 plus twice the regular annual fee for the vehicle type. The registration period is non expiring.

(c) Collector special plates are available to LCO tribal members with a valid collector vehicle and are available for autos, motor homes, motor trucks up through 8,000 pounds and 12,000 pound farm trucks. The fee to register a collector special vehicle is subject to the annual registration fee dependent on the vehicle type plus \$15 dollars when new plates are issued.

(d) The department shall furnish the owner of the vehicle with registrations plates of a distinctive design in lieu of the usual registration plates, and those shall show that the vehicle is a special interest vehicle owned by a collector.

(e) Each collector applying for special interest vehicle registration plates will be issued a collector's identification number which will appear on each plate. Second and all subsequent registrations under this section by the same collector will bear the same collector's identification number followed by a suffix letter for vehicle identification.

(f) The vehicle may be used as are other vehicles of the same type except:

(1) Motor vehicles may not transport passengers for hire.

(2) Trucks may not haul material weighing more than 500 pounds.

(3) No special interest vehicle may be operated upon any highway within the Reservation during the month of January unless the owner of the vehicle reregisters the vehicle with regular registration plates or transfers regular registration plates to the vehicle.

(g) Unless inconsistent with this section, the provisions applicable to other vehicles shall apply to special interest vehicles.

Prior Codifications

- * §VEH.3.10.010 was formerly codified as LCOTCC §5.34

Subchapter VEH.3.11 Part-Year Fees for Private Automobiles



VEH.3.11.010 Calculation of Partial Fees	VEH.3.11-1
VEH.3.11.020 When Part-Period Fees Payable for Vehicles Other than Automobiles;	VEH.3.11-2
VEH.3.11.030 Transferred Plates or Plates No Longer in Use	VEH.3.11-4
VEH.3.11.040 Re-Registration Required for Vehicles Subject to a Different Fee.....	VEH.3.11-5
VEH.3.11.050 Refundable Fees	VEH.3.11-5
VEH.3.11.060 Change of Address	VEH.3.11-5
VEH.3.11.070 Reinstatement of Suspended or Revoked Registration	VEH.3.11-6
VEH.3.11.080 Exemption of Nonresidents and Foreign Registered Vehicles	VEH.3.11-6
VEH.3.11.090 Reciprocal Agreements	VEH.3.11-6

VEH.3.11.010 Calculation of Partial Fees

(a) The applicant for registration of an automobile under the monthly series system shall pay in full the annual registration fee prescribed by law, except as otherwise provided in this section.

(b) If the applicant for registration holds current registration plates which were removed from an automobile which the applicant no longer owns or which has been junked, is no longer being used on the highways or has been registered as a special interest vehicle the applicant is exempt from the payment of a registration fee, except in the following cases:

(1) If the annual fee prescribed for the automobile being registered is higher than the annual fee prescribed for the automobile from which the plates were removed, the applicant shall pay a fee computed on the basis of one-twelfth of the difference between the two annual fees multiplied by the number of months for which the automobile which is the subject of the application is being registered. The start of the new registration, for the purpose of computing the fee, shall be determined in accordance with par. (c).

(c) For the purpose of computing the registration fee payable upon registration of an automobile under circumstances described in par. (a) & (b), the beginning of the current registration period shall be determined as follows:

(1) If the first operation of an automobile under circumstances making the owner liable for its registration by the Department occurs on or before the 15th day of a given month, the registration period commences on the first day of such month. If the first

operation occurs on or after the 16th day of a given month, the registration period commences on the first day of the following month. "First operation" means operation of an automobile for the first time after it was transferred to the applicant or after it was registered in another jurisdiction or after the expiration of 12 months of non-operation since expiration of the last registration by the Department or after it was no longer used on the highways.

(2) In the case of an automobile which has not previously been registered or which has not been registered by the Department by the present owner since the last owner last acquired ownership of the automobile, the Department shall assume that the date of first operation within the meaning of sub. (1) is the date of the bill of sale evidencing the transfer of ownership to the applicant unless the applicant files with the department a statement that the automobile was not so operated until a later date, specifying the date of such first operation. In the case of at least 12 months of non-operation of an automobile previously registered by the applicant, the applicant must file with the department a statement that he or she did not operate or consent to the operation of the automobile under circumstances making it subject to registration in this state during such 12-month period and must specify the date following such period when the automobile was first so operated. The department may refuse to accept a statement which projects the date of first operation into the future.

Prior Codifications

* §VEH.3.11.010 was formerly codified as LCOTCC §5.35

VEH.3.11.020 When Part-Period Fees Payable for Vehicles Other than Automobiles;

Computation of Part-Period Fees

The annual registration fee shall be paid in full on all vehicles registered pursuant to Section VEH.3.2.030, unless the vehicles come within one of the following categories, in which event the applicant is liable for the payment of only a part-period fee to be computed in accordance with Section VEH.3.11.020(e):

(a) The vehicle has not previously been registered within this Reservation; or

(b) The vehicle previously was registered within this Reservation; but

(1) The vehicle in the meantime has been registered in another jurisdiction and such foreign registration was in effect during or subsequent to the expiration of the previous registration in this state; or

(2) The vehicle was transferred to the applicant after the expiration of the last registration in this state; or

(3) At least 12 months have elapsed since the end of the period for which the vehicle previously was registered and the applicant files with the department a statement that did not, during such 12-month period, operate or consent to the operation of the vehicle under circumstances making the vehicle subject to registration in this state; or

(4) The vehicle is a motorcycle which has been transferred to the applicant and for which current registration plates had been issued to the previous owner; or

(5) The vehicle which has been transferred to the applicant is a motor home or a truck; or

(6) The vehicle is subject to the provisions of sub. (5); or

(c) The vehicle is a replacement for a registered vehicle which has been junked or is no longer used on the highway; or

(d) The vehicle is owned by a person who has been in active military service and less than 12 months of non-operation have elapsed since the end of the period for which the vehicle was previously registered, provided the applicant files with the department a statement of such non-operation.

(e) Part-period registration fees shall be computed as follows:

(1) For vehicles registered under the conditions in Section VEH.3.11.020(a), Section VEH.3.11.020(b), or Section VEH.3.11.020(d), the fee for the current registration period shall be computed on the basis of one-twelfth of the annual registration fee or one twenty-fourth of the biennial registration fee prescribed for the vehicle multiplied by the number of months of the current registration period which have not fully expired on the date the vehicle first is operated by or with the consent of the applicant under circumstances making it subject to registration by the Lac Courte Oreilles. In the case of a vehicle which has not previously been registered or which has not been registered within this Reservation by the present owner since the owner last acquired ownership of the vehicle, the department shall assume that the date of first operation bill of sales evidencing transfer of ownership to the applicant unless he or she files with the department a statement that the vehicle was not so operated until a later date, specifying the date of such first operation. The department may refuse to accept any statement which projects the date of first operation into the future.

(2) For the registration of a replacement vehicle under the conditions set forth in Section VEH.3.11.020(c), or the fee shall be computed as for a vehicle not previously registered in this state, but a credit shall be allowed for the unused portion of the fee paid for the vehicle being replaced. Such credit shall be computed on the basis of one-

twelfth of the annual registration fee or one twenty-fourth of the biennial registration fee prescribed for the vehicle being replaced multiplied by the number of months of registration which have not fully expired at the time the vehicle being replaced was junked, traded, sold or removed from jurisdiction of the Lac Courte Oreilles. Except for a vehicle registered on a biennial basis, it is not necessary that the replacement vehicle be of the same type as the one being replaced in order for the applicant to take advantage of the credit but the credit may be applied toward registration of the replacement vehicle only up to the date when the registration of the vehicle being replaced would have expired.

Prior Codifications

* §VEH.3.11.020 was formerly codified as LCOTCC §5.36

VEH.3.11.030 Transferred Plates or Plates No Longer in Use

(a) The transferee of a vehicle registered as provided in Section VEH.3.2.030 is not subject to the payment of any registration fee for the remainder of the period for which the vehicle is registered unless, by reason of his or her status or the use to which the vehicle is put, the fee prescribed by law is higher than that paid by the former owner. In such event, the fee shall be computed on the basis of one-twelfth of the difference between the two (2) annual fees multiplied by the number of months of the current registration period which have not fully expired on the date, after the vehicle is acquired by the applicant, when such vehicle is first operated by him or her with his or her consent under circumstances making it subject to registration by the Lac Courte Oreilles.

(b) A person retaining a set of plates removed from a vehicle which was junked or transferred, is no longer used on the highways or has been registered as a special interest vehicle under Section VEH.3.10.010 may receive credit for the unused portion of the registration fee paid when registering a replacement vehicle of the same type and gross weight.

(c) A person retaining a set of plates removed from a motorcycle may receive credit for the unused portion of the registration fee paid when registering a replacement motorcycle.

(d) This section does not apply to vehicles registered at a fee of \$5 under Section VEH.3.8.010. Such vehicles, whether registered for a full period or part thereof and whether or not previously registered, shall be registered at the full fee. If a person authorized to register a vehicle at a fee of \$5 under Section VEH.3.8.010 transfers the vehicle to a person not so authorized, the fee payable by the transferee shall be computed as for a vehicle not previously registered by the Lac Courte Oreilles.

(e) The credit or plate transfer provisions authorized under this section do not apply if the applicant has, within the preceding 12 months, transferred or received credit for registration plates removed from the motor vehicle which is the subject of the application.

Prior Codifications

* §VEH.3.11.030 was formerly codified as LCOTCC §5.37

VEH.3.11.040 Re-Registration Required for Vehicles Subject to a Different Fee

Whenever the construction or the use of a registered vehicle is changed in a manner making the vehicle subject to a different registration fee than the fee for which the vehicle currently is registered, the owner shall immediately make application for registration. The fee payable upon such re-registration shall be computed as for a vehicle not previously registered in this jurisdiction but a credit shall be allowed for the unused portion of the fee paid for the previous registration if the registration plates issued upon the previous registration are returned to the department. The credit shall be computed on the basis of one-twelfth of the annual registration fee or one twenty-fourth of the biennial registration fee prescribed for the vehicle as previously registered multiplied by the number of months of registration which have not fully expired on the date the vehicle became subject to the different fee. The credit may be applied toward the reregistration of the vehicle only up to the date when the previous registration would have expired.

Prior Codifications

* §VEH.3.11.040 was formerly codified as LCOTCC §5.38

VEH.3.11.050 Refundable Fees

(a) The department shall not refund a fee paid to it except when expressly authorized or directed by this section or some other provision of this ordinance to do so.

(b) Upon request, the department shall refund 50 percent of a registration fee paid for a vehicle registered on a biennial basis if the person who registered the vehicle furnishes such proof as the department requires that the person has transferred his or her interest in the vehicle before the beginning of the second year of the period for which the vehicle is registered or that the vehicle will not be operated within the jurisdiction of the Lac Courte Oreilles after the beginning of the second year of the period for which the vehicle is registered. The department may require the person to return the certificate of registration and registration plates for the vehicle to the department.

Prior Codifications

* §VEH.3.11.050 was formerly codified as LCOTCC §5.39

VEH.3.11.060 Change of Address

(a) Whenever any person, after applying for and receiving registration plates, moves from the address named in the application for the registration plates or when the name of the licensee is changed by marriage or otherwise, the person shall within 10 days notify the

department in writing of the old and new address or of such former and new names and of all registration plate numbers held.

(b) Any person who fails to comply with any of the requirements of par. (a) may be required to forfeit not more than \$25.

Prior Codifications

* §VEH.3.11.060 was formerly codified as LCOTCC §5.40

VEH.3.11.070 Reinstatement of Suspended or Revoked Registration

(a) Except as provided in par. (b), the department shall charge a fee of \$25 to reinstate a registration previously suspended or revoked under this law. The fee under this subsection is in addition to any other fee required to complete the registration of the vehicle.

(b) Par. (a) does not apply to the reinstatement of a registration suspended or revoked as a result of an error by the department.

Prior Codifications

* §VEH.3.11.070 was formerly codified as LCOTCC §5.41

VEH.3.11.080 Exemption of Nonresidents and Foreign Registered Vehicles

Any vehicle which is registered in another jurisdiction is exempt from the Lac Courte Oreilles Motor Vehicle Registration Ordinance providing for the registration of such vehicles if:

(a) The vehicle carries a registration plate indicating the registration in such other jurisdiction, and

(b) The vehicle is owned by a nonresident of the Reservation.

(c) If the owner of such vehicle moves within the jurisdiction Lac Courte Oreilles or if the vehicle is purchased by a Lac Courte Oreilles Tribal member, the vehicle immediately becomes subject to the laws of the Lac Courte Oreilles providing for registration of vehicles.

Prior Codifications

* §VEH.3.11.080 was formerly codified as LCOTCC §5.42

VEH.3.11.090 Reciprocal Agreements

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians may enter into a reciprocal exemption agreement with the State of Wisconsin. The reciprocal agreement may exempt designated classes of vehicles registered by the department from the registration requirements of the State of Wisconsin.

Prior Codifications

* §VEH.3.11.090 was formerly codified as LCOTCC §5.43

**Subchapter VEH.3.12
Penalties**



VEH.3.12.010 Fraudulent Applications VEH.3.12-1
 VEH.3.12.020 Improper Use of Evidence of Registration VEH.3.12-1
 VEH.3.12.030 Special Registration Plates VEH.3.12-1

VEH.3.12.010 Fraudulent Applications

Any person who gives a false or fictitious name, address or location where a vehicle is customarily kept in an application for license or registration or who makes application for license or registration in the name of a person other than the true owner, or true owner and lessee, may be fined not more than \$200.

Prior Codifications

* §VEH.3.12.010 was formerly codified as LCOTCC §5.44

VEH.3.12.020 Improper Use of Evidence of Registration

Any person who does any of the following may be subject to a fine of not more than \$500:

(a) Lends to another a registration plate for display upon a vehicle for which the plate has not been issued.

(b) Displays upon a vehicle a registration plate not issued for such vehicle or not otherwise authorized by law to be used thereon.

(c) Willfully twists, paints, alters or adds to or cuts off any portion of a registration plate or sticker; or who places or deposits, or causes to be placed or deposited on such plate or sticker any substance to hinder the normal reading or such plate; or who defaces, disfigures, covers, obstruct, changes or attempts to change any letter or figure thereon; or who causes such plate or sticker to appear to be a different color.

Prior Codifications

* §VEH.3.12.020 was formerly codified as LCOTCC §5.45

VEH.3.12.030 Special Registration Plates

Any person who fraudulently procures or uses special registration plates issued under Section VEH.3.2.030 of this ordinance shall forfeit not less than \$200, nor more than \$500.

Prior Codifications

* §VEH.3.12.030 was formerly codified as LCOTCC §5.46

Subchapter VEH.3.13
When Registration Is to Be Suspended



VEH.3.13.010 When Suspended..... VEH.3.13-1
 VEH.3.13.020 Transfer of Vehicle Ownership While Registration Suspended..... VEH.3.13-2

VEH.3.13.010 When Suspended

(a) The department shall suspend the registration of a vehicle when:

(1) The registration was completed through fraud or error and the person who registered the vehicle does not or cannot register the vehicle properly.

(2) The required fee has not been paid and the same is not paid upon reasonable notice and demand.

(3) Suspension of registration is specified by an authority under Section VEH.3.14.010.

(4) The applicant fails, upon reasonable notice and demand, to furnish proof of payment, in the form prescribed by the U.S. Secretary of Treasury, that the federal heavy vehicle use tax imposed by section 4481 of the Internal Revenue Code has been paid.

(5) The licensee of a vehicle registered under Section VEH.3.7.010 has not been compiled with the test or inspection requirements of the State of Wisconsin under s.110.20(6)Wis. Stats.

(b) Any registration suspended pursuant to this section continues to be suspended until reinstated by the department. The department shall reinstate the registration when the reason for the suspension has been removed.

(c) Whenever the registration of a vehicle is suspended under this section, the department may order the owner or person in possession of the registration plates to return them to the department. Any person who fails to return the plates when ordered to do so by the department may be required to forfeit not more than \$200.

Prior Codifications

* §VEH.3.13.010 was formerly codified as LCOTCC §5.47

VEH.3.13.020 Transfer of Vehicle Ownership While Registration Suspended

(a) No owner may transfer the ownership or registration of any vehicle whose registration is suspended under Section VEH.3.13.010 until the registration is reinstated under Section VEH.3.13.010(b) or until the department is satisfied that such transfer is proposed in good faith and not for the purpose or with the effect of defeating the purposes of Section VEH.3.13.010(a)(3).

(b) Any person violating this section may be subject to a fine of not more than \$200.

(c) This section does not apply to or affect the registration of any vehicle sold by a person who, pursuant to the terms or conditions of any written instrument giving a right of repossession, has exercised such right and has repossessed such vehicle from a person who registration has been suspended under Section VEH.3.13.010(a)(3).

Prior Codifications

* §VEH.3.13.020 was formerly codified as LCOTCC §5.48

**Subchapter VEH.3.14
Nonmoving Violations**



VEH.3.14.010 Non-Moving Violation..... VEH.3.14-1
VEH.3.14.020 Penalty for Operating Unregistered or Improperly Registered Vehicle VEH.3.14-1

VEH.3.14.010 Non-Moving Violation

(a) As used in this section:

(1) "Authority" means a Tribal Authority, a local authority, or a state agency.

(2) "Forfeiture" includes a fine established under this ordinance.

(3) "Nonmoving traffic violation" is any parking of a vehicle in violation of a statute, an ordinance, or a resolution of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians or the State of Wisconsin.

(b) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority which issued the citation may issue a summons to the person and, in lieu of or in addition to issuing the summons, may proceed but, except as provided in this section, no warrant may be issued for the person. If the person appears in response to a summons for a nonmoving traffic violation, the procedures under the current Lac Courte Oreilles Tribal Court rules and regulations shall apply.

(c) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority may notify the department in the form and manner prescribed by the department that a citation has been issued to the person and the citation remains unpaid. The authority shall specify whether the department is to suspend the registration of the vehicle involved under Section VEH.3.13.010 or refuse registration of any vehicle owned by the person.

Prior Codifications

* SVEH.3.14.010 was formerly codified as LCOTCC §5.49

VEH.3.14.020 Penalty for Operating Unregistered or Improperly Registered Vehicle

(a) It is unlawful for any person to operate or for an owner to consent to being

operated on any highway of this jurisdiction any motor vehicle, mobile home, trailer, or any other vehicle for which a registration fee is specifically prescribed unless at the time of operation the vehicle in question either is registered in this jurisdiction, or, a complete application for registration, including evidence of any inspection required by the jurisdiction, accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid, and if the vehicle is an automobile, station wagon or motor truck having a registered weight of 8,000 pounds or less, the vehicle displays a temporary operation plate issued for the vehicle unless the operator or owner of the vehicle displays a temporary operation plate issued for the vehicle unless the operator or owner of the vehicle produces proof that operation of the vehicle is within 2 business days of the vehicle's sale or transfer, or the vehicle in question is exempt from registration.

(1) A vehicle may be operated by a private person after the date of purchase of such vehicle by such private person or after the date such person moved to this jurisdiction if application for registration and certificate of title has been made.

(b) All vehicles subject to renewal or registration may be operated provided that application for re-registration has been made.

(c) Unless application for re-registration has been made as required by Section VEH.3.11.040, it is unlawful for any person to operate or for the owner to consent to being operated on any highway of this jurisdiction any registered vehicle the construction or use of which has been changed so as to make the vehicle subject to a higher fee than the fee at which it currently is registered or which is carrying a greater load than that permitted under the current registration.

(1) Any person who violates par. (a) or (b), where the vehicle used is an automobile, station wagon, or any other vehicle having a gross weight of 10,000 pounds or less, may be required to forfeit not more than \$200.

(d) Any person who violates par. (a) or (b), where the vehicle used is vehicle not enumerated under sub. (1), may be required to forfeit not more than \$500.

Prior Codifications

* SVEH.3.14.020 was formerly codified as LCOTCC §5.50

**Chapter VEH.4
All-Terrain Vehicles and Utility Task Vehicles**



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Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide a code for the operation and enforcement for ATV/UTV vehicles on the Reservation, including the regulation of operation and identification of enforcement for persons who operate under this code. To provide regulations for the safe operation of ATV/UTV vehicles to protect real or personal property of the Band, harming its members or Reservation residents, or by endangering or harming the natural, social, or physical well-being of members or other persons on the Reservation which predates its treaties of 1825, 1826, 1837, 1842, 1847, and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice...."

**Subchapter VEH.4.1
Introduction**



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VEH.4.1.010 Title

This ordinance shall be known as the ATV/UTV Code for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation.

(Res. No. 2022-103)

VEH.4.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice..." And Article I, §2 "The jurisdiction of the band shall extend to all lands and waters within the territory of the band..."

(Res. No. 2022-103)

VEH.4.1.030 Purpose

The purpose of this Chapter is to provide for the regulation of all-terrain vehicle operations, utility task vehicle operations, owner safety, operator safety, and for the safety of those operating motor vehicles on roadways within the boundaries of the Lac Courte Oreilles Reservation.

(Res. No. 2022-103)

VEH.4.1.040 Scope

The Lac Courte Oreilles Tribal Governing Board is authorized to regulate operations of all-terrain vehicles, off-highway motorcycle ("mini-bikes"), and utility terrain vehicles, (hereinafter "ATV/UTV") on the Reservation and to establish safety regulations for safe use. Except as provided by this Code, all persons and ATV/UTV shall operate under the authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. Any authorized personnel may operate an ATV/UTV on the Reservation, consistent with the regulations set forth under this code. Any violations shall be subject to the Lac Courte Oreilles Tribal Court.

(Res. No. 2022-103)

VEH.4.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 2022-103)

VEH.4.1.060 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 2022-103)

VEH.4.1.070 Non-Exclusive Remedy

Any conviction of a violation under this Code does not prevent, negate or exclude the use of any other remedy or penalty that is otherwise provided by this Code or other governing federal, state or tribal law.

(Res. No. 2022-103)

VEH.4.1.080 Interpretation

The provisions of this ordinance:

- (a) Shall be liberally construed in favor of the Tribe;
- (b) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(Res. No. 2022-103)

**Subchapter VEH.4.2
Definitions**



VEH.4.2.010 General DefinitionsVEH.4.2-1

VEH.4.2.010 General Definitions

Any term not defined in this Section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"All-terrain vehicle" and "ATV"** means an engine-driven device which has a net weight of 650 pounds or less, which has a width of forty-eight (48) inches or less, which is equipped with a seat designed to be straddled by the operator, and which is designed to travel on three (3) or more low-pressure tires. Every non-electric ATV/UTV is required to be equipped with a functioning muffler to prevent excessive or unusual noise.

(b) **"County"** means Sawyer County, a political subdivision of Wisconsin.

(c) **"County Road"** means any road that is maintained by the County that exists within the exterior boundaries of the reservation.

(d) **"Highway"** means all public ways and thoroughfares and bridges and the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel.

(e) **"Purpose of access from lodging"** means for the purpose of traveling for the shortest distance that is necessary and as far to the right side of the roadway as possible for a person operating the all-terrain vehicle to go between a lodging establishment and the all-terrain vehicle route or trail that is closest to the lodging establishment.

(f) **"Purpose of residential access"** means for the purpose of traveling for the shortest distance that is necessary and as far to the right side of the roadway as possible for a person operating the all-terrain vehicle to go between a residence and the all-terrain vehicle route or trail that is closest to that residence.

(g) **"Reservation"** means the Lac Courte Oreilles Reservation as established under the 1854 Treaty (cite) between the United States and the Ojibwe tribes.

(h) **"Reservation road"** means any road that is maintained by the tribal roads department.

(i) **"Road, trail, or street"** means any path that may or may not be paved which is identified by name, number of which the automobile use is intended.

(j) **"Roadway"** means that portion of a highway between the regularly established curb lines or that portion which is improved, designed, or ordinarily used for vehicular travel, excluding the berm or shoulder.

(k) **"Nonmember" or "Non-Tribal Member"** means a person is not currently enrolled in the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(l) **"Off-highway motorcycle"** means a two-wheeled motor vehicle that is straddled by the operator that is equipped with handlebars, and that is designed for use off a highway, regardless of whether it is also designed for use on a highway. The off-highway motorcycle operator shall be subject to the same terms and conditions as an ATV/UTV operator.

(m) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(n) **"Tribal Member"** means an enrolled member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(o) **"Tribe"** means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(p) **"Utility-task vehicle" and "UTV"** as a commercially designed and manufactured motor-driven device that is designed to be used primarily off highway, and originally manufactured and equipped with all of the following: a weight, without fluids, of 3000 pounds or less; four or more tires; steering wheel; tail light; brake light; two headlights; width of not more than 65 inches; seat belts; and roll bar or similar device designed to reduce the likelihood that an occupant would be crushed as the result of a rollover. Every non-electric ATV/UTV is required to be equipped with a functioning muffler to prevent excessive or unusual noise.

(Res. No. 2022-103)

**Subchapter VEH.4.3
Rules of Operation**



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VEH.4.3.010 Authorized Operation

(a) All ATV/UTV operators shall comply with posted speed limits, stop signs, traffic signs, and must comply with any law enforcement attempts to stop to the ATV/UTV. For all roads under this Code the maximum allowable speed for ATV/UTV use shall not exceed 35 mph.

(b) Operators may operate an ATV/UTV:

(1) On all marked roads and marked trails within the boundaries of the Lac Courte Oreilles Reservation.

(2) On all state and county highways located within the boundaries of the Lac Courte Oreilles reservation.

(3) On tribally-owned lands whose purpose is to hunt, fish or gather within the exterior boundaries of the reservation. Failure to post that land is the property of the Tribe does not imply consent for ATV/UTV use.

(4) All persons under the age of 18 are required to wear a helmet and eye protection when operating an ATV/UTV.

(5) ATV operation is limited to one person per vehicle unless designed for a passenger.

(6) No passengers allowed for operators under the age 18.

(7) Infants are prohibited from being passengers in an ATV/UTV during its operation.

(Res. No. 2022-103)

VEH.4.3.020 Unauthorized Operations Operators may not operate an ATV/UTV:

- (a) In any reckless or negligent way so as to endanger the person or property of another.
- (b) On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for ATV/UTV use.
- (c) On allotted lands to tribal members within the exterior boundaries of the reservation. Failure to post that land is the property of the Tribe does not imply consent for ATV/UTV use.
- (d) When under the influence of alcohol, drugs or any other altering substance.
- (e) When within 150 feet of a dwelling at a speed exceeding ten (10) miles per hour.
- (f) On land owned in fee simple that belongs to a non-tribal member within the exterior boundaries of the reservation, failure to post private property does not imply consent for ATV/UTV use.
- (g) No operator may cause excessive, unusual noise, or noise pollution while operating an ATV/UTV.

(Res. No. 2022-103)

VEH.4.3.030 Operation on County Roads or Highways

- (a) Highways. ATV/UTV all-terrain vehicle may operate on a state highway or county road marked for ATV/UTV use located within the exterior boundaries of the reservation.
- (b) Operation on roadway or pavement. all-terrain vehicles may operate on the roadway portion of any state or county highway or any road, street or trail that is marked as a AT/UTV trail.
- (c) Operation adjacent to roadway. all-terrain vehicles may operate adjacent to a roadway on an all-terrain vehicle route or trail if the person operates it in the following manner:
 - (1) At a distance of ten (10) or more feet from the shoulder of the roadway along state, county and tribal roadways. Travel on the median of a divided highway is prohibited except to cross,
 - (2) During hours of darkness in the same direction as motor vehicle traffic in the nearest lane, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic, and

(3) Not in excess of the speed limits of the adjacent roadway.

(Res. No. 2022-103)

VEH.4.3.040 Hours of Operation

(a) Hours of Operation for recreational use of ATV/UTV on the Lac Courte Oreilles Reservation shall be from 6:00 A.M. until 11:00 P.M Sunday through Saturday.

(b) Hours of Operation of ATV/UTV use for the exercise of treaty hunting, fishing, and gathering rights shall be allowed outside the Hours of Operation above for Tribal Members who are exercising such treaty-protected rights on reservation.

(Res. No. 2023-51 Section 1; Res. No. 2022-115; Res. No. 2022-103)

VEH.4.3.050 Logging Areas and Sacred Sites

(a) Areas located on the reservation that are marked as "logging areas" or areas that are deemed by the Tribe to be a "sacred site" are off-limits to any ATV/UTV operation under this code.

(Res. No. 2022-103)

VEH.4.3.060 Trail Designation

(a) All ATV/UTV trails shall be designated for use by the LCO Conservation Department. Each trail shall be conspicuously marked with a trail designation. A map of the ATV/UTV trail system for the reservation will be maintained in the Land Management Division.

(Res. No. 2022-103)

VEH.4.3.070 Northwoods Beach Limits

The roads in the Northwoods Beach residential area may be used by Tribally registered ATV/UTV users pursuant to VEH.4.4.030.

(Res. No. 2023-51 §§ 2, 3, 4; Res. No. 2022-115; Res. No. 2022-103)

**Subchapter VEH.4.4
Enforcement**



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 VEH.4.4.030 Tribal ATV/UTV RegistrationVEH.4.4-1

VEH.4.4.010 Enforcement

A duly appointed and designated Lac Courte Oreilles Tribal Police Officer, and the Lac Courte Oreilles Conservation Wardens, are authorized to enforce the provisions of this chapter and to cite individuals for violation thereof into Tribal Court.

(Res. No. 2023-51 Section 5; Res. No. 2022-103)

VEH.4.4.020 Tribal Court

All citations issued under this code shall be heard in the Lac Courte Oreilles Tribal Court. The Tribal Court shall have personal and subject matter jurisdiction for all citations issued under this code.

(Res. No. 2023-51 Section 6; Res. No. 2022-103)

VEH.4.4.030 Tribal ATV/UTV Registration

(a) All ATV/UTV that operate on the Reservation shall be registered with the Lac Courte Oreilles Police Department.

(b) Each ATV/UTV shall be issued a unique ATV/UTV permit that shall be prominently displayed on the ATV/UTV.

(c) The registration of the ATV/UTV shall be renewed every two years.

(d) The registration fee shall not exceed \$50.00 per ATV/UTV.

(e) Failure to register ones ATV/UTV may result in immediate impoundment of the ATV/UTV, at the owner's expense.

(f) LCO Tribal members shall register their ATV/UTV, however, tribal members registration fee shall be waived if a valid LCO Tribal ID is provided at the time of registration.

(g) Falsification of ATV/UTV use permit is subject to all penalties included in VEH.4.5.010.

(h) The illegal transfer of ATV/UTV permit is subject to all penalties included in VEH.4.5.010.

(Res. No. 2023-51 Section 7; Res. No. 2022-103)

**Subchapter VEH.4.5
Penalties**



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VEH.4.5.010 Penalties

(a) Any person who violates any section of this code shall pay a forfeiture of not less than \$50 no more than \$5000 for each offense. Said forfeiture is exclusive of any vehicle confiscation or vehicle impoundment by the Tribe.

(b) For any ATV/UTV that is operating outside the posted roadways or ATV/UTV trails, the Tribe reserves the right to confiscate any ATV/UTV and remove the vehicle outside of the Reservation boundary. The Lac Courte Oreilles Police Department or the Lac Courte Oreilles Conservation Department reserves the right to impound any ATV/UTV that violates any section under this Code.

(c) For any ATV/UTV that does not have tribal registration or tribal plates displayed, may be confiscated, or impounded by a Lac Courte Oreilles Law Enforcement Officer. Any ATV/UTV which is confiscated or impounded shall be held at the Tribal Police Department or Safety Center. Any vehicle may be released at the reservation boundary by Tribal Law Enforcement.

(d) Any ATV/UTV that is confiscated by Tribal Law enforcement may be released at the reservation boundary or at the registered residence of the ATV/UTV owner, at the Owner's expense.

(e) Any ATV/UTV that is impounded by Tribal Law Enforcement may be released to the registered owner with an order of the Tribal Court and proof of payment for any fines or penalties under this code.

(Res. No. 2023-51 Section 8; Res. No. 2022-103)

VEH.4.5.020 Citations

The following is a non-exhaustive list of citations that may be issued for a violation of this Code:

(a) Operation of an ATV/UTV without fully operational vehicle lights, pursuant to §VEH.4.3.010,

(b) Operation of an ATV/UTV in excess of posted speed limits, pursuant to § VEH.4.3.020,

(c) Operation of an ATV/UTV outside of the posted roadways or marked paths/trails, pursuant to § VEH 4.2.010, §VEH.4.3.030, & §VEH.4.3.050,

(d) Operation of an ATV/UTV without protective safety equipment, pursuant to § VEH.4.3.010,

(e) Operation of an ATV/UTV near sacred sites or on private property, pursuant to § VEH.4.3.030 and § VEH.4.3.050,

(f) Operation of an ATV/UTV in a reckless or negligent manner, pursuant to § VEH.4.3.020,

(g) Operation of an ATV/UTV with an unauthorized passenger, pursuant to § VEH.4.3.010,

(h) Operation of an ATV/UTV after hours of operations, pursuant to § VEH.4.3.040 & § VEH.4.3.030(c)(2),

(i) Operation of an ATV/UTV without current registration, pursuant to § VEH.4.4.030,

(j) Operation of an ATV/UTV when under the influence of alcohol, drugs, or any other altering substance § VEH.4.3.020(d),

(k) Operation of an ATV/UTV without a muffler pursuant to §VEH.4.2.010(a) and (k), and

(l) Operation of an ATV/UTV causing excessive noise, unusual noise, and or noise pollution pursuant to §VEH.4.3.020(g).

(Res. No. 2022-103)

VEH.4.5.030 Citation Procedure

(a) All citations issued under this code shall be prosecuted under the Lac Courte Oreilles Tribal Code of Law §TCT.2 Rules of Civil Procedures Code of the Lac Courte Oreilles Band. Please see the Tribal Court Code for further details about the court procedure for citations issued under this Code.

(Res. No. 2022-103)

VEH.4.5.040 Confiscated or Impoundment Procedure

(a) Any ATV/UTV that is confiscated by Tribal Law Enforcement may be released at the reservation boundary or at the registered residence of the ATV/UTV owner, at the Owner's expense.

(b) Any ATV/UTV that is impounded by Tribal Law Enforcement may be released to the registered owner with an order of the Tribal Court and proof of payment for any fines or penalties under this code.

(Res. No. 2022-103)

Title PHS
Public Health and Safety



PHS.1 Public Safety Commission Code of the Lac Courte Oreilles Band of Lake Superior
Chippewa Indians PHS.1-1

PHS.2 Solid Waste Disposal and Recycling Code of the Lac Courte Oreilles Band of Lake
Superior Chippewa Indians PHS.2-1

PHS.3 Exclusion and Removal Code of the Lac Courte Oreilles Band of Lake Superior
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PHS.7 Tattoo and Body Piercing Code of the Lac Courte Oreilles Band of Lake Superior
Chippewa Indians PHS.7-1

Chapter PHS.1
Public Safety Commission Code of the Lac Courte Oreilles Band of Lake Superior Chippewa
Indians



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PHS.1.5 Establishment of Tribal Police PHS.1.5-1
PHS.1.6 Firearms Control PHS.1.6-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide policy guidance and ensure that the Tribe's public safety agencies serve the members and visitors of the Lac Courte Oreilles Reservation, which authority predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, §§ 1(l) and (m) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "organize, charter and regulate any association or group ... for the purpose of providing social or economic benefits to the members of the Band or residents of the reservation" Article V, § 1 (l); and "delegate to subordinate boards, officers, committees or cooperative associations which are open to all members of the Band any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated powers" Article V, § 1 (m). Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby establishes a public body known as the Lac Courte Oreilles Public Safety Commission (hereinafter referred to as the Public Safety Commission), and enacts this ordinance which shall establish the purposes, powers and duties of the Public Safety Commission. In any suit, action or proceeding involving the validity or enforcement of or relating to any of actions of the Tribe's public safety agencies, the Public Safety Commission shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of this ordinance duly certified by the Secretary/Treasurer of the Tribal Governing Board shall be admissible in evidence in any suit, action or proceedings.

**Subchapter PHS.1.1
General Provisions**



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 PHS.1.1.100 Repeal of Inconsistent Tribal Ordinances..... PHS.1.1-4

PHS.1.1.010 Title

This ordinance shall be known as the Public Safety Commission Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* PHS.1.1.010 was formerly codified as X LCOTCL §1.101

PHS.1.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, §§ 1 (l), (m), and (s) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "organize, charter and regulate any association or group ... for the purpose of providing social or economic benefits to the members of the Band or residents of the reservation" Article V, § 1 (l); "delegate to subordinate boards, officers, committees or cooperative associations which are open to all members of the Band any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated powers" Article V, § 1 (m); and "to promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin

and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers. Article V, § 1 (s).

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.020 was formerly codified as X LCOTCL §1.102

PHS.1.1.030 Declaration of Need

It is hereby declared:

(a) The safety of the tribal citizens and for our tribal public safety officers are the top priority of this Public Safety Commission.

(b) The protection of the tribe's resources and tribal entities are paramount for a safe community.

(c) This Public Safety Commission is dedicated to ensuring the Lac Courte Oreilles Reservation is safe place for citizens and guests.

(d) That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.030 was formerly codified as X LCOTCL §1.103

PHS.1.1.040 Purpose

The Public Safety Commission shall be operated for the purpose of providing oversight and policy development for Lac Courte Oreilles Police Department, the Lac Courte Oreilles Conservation Enforcement Division, and the Lac Courte Oreilles Fire Department.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.040 was formerly codified as X LCOTCL §1.104

PHS.1.1.050 Territorial Applicability

This ordinance shall govern the activities of the public safety agencies of the Public Safety Commission pursuant to the provisions of this ordinance within Lac Courte Oreilles

Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.050 was formerly codified as X LCOTCL §1.105

PHS.1.1.060 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.060 was formerly codified as X LCOTCL §1.106

PHS.1.1.070 Compliance with Federal and State Law

The Tribe shall comply with all applicable federal laws, including the, 18 U.S.C. § 117, 18 U.S.C. § 922, 18 U.S.C. § 1162, 18 U.S.C. § 2261, 18 U.S.C. § 2262, 25 U.S.C. § 1301 *et seq.*, 25 U.S.C. § 2801 *et seq.*, 25 U.S.C. § 2451, 25 U.S.C. § 3613, 28 U.S.C. § 1360, 42 U.S.C. § 13925 *et seq.*, Wis. Stat. §66.0313, Wis. Stat. §165.90, Wis. Stat. §165.92, Wis. Stat. §175.40, Wis. Stat. §806.245, Wis. Stat. §806.247, Wis. Stat. §813.12, Wis. Stat. §813.122, Wis. Stat. §813.123, Wis. Stat. §813.125, Wis. Stat. §813.128, Wis. Stat. §941.29.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.070 was formerly codified as X LCOTCL §1.107

PHS.1.1.080 Interpretation

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to the activities of the public safety agencies of the Public Safety Commission subject to this ordinance;

(b) Shall be liberally construed in favor of the Tribe;

(c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.1.080 was formerly codified as X LCOTCL §1.108

PHS.1.1.090 Severability and Non-Liability

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to the activities of the public safety agencies of the Public Safety Commission subject to this ordinance;

(b) Shall be liberally construed in favor of the Tribe;

(c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.1.090 was formerly codified as X LCOTCL §1.108

PHS.1.1.100 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.1.100 was formerly codified as X LCOTCL §1.109

**Subchapter PHS.1.2
Definitions**



PHS.1.2.010 General Definitions PHS.1.2-1

PHS.1.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) "Area of Operation" means all areas within the jurisdiction of the Lac Courte Oreilles Band of Lake Superior Chippewa.

(b) "Executive Director or Director" means the individual employed by the Tribal Governing Board to manage the affairs of the public safety agencies as provided for in this Ordinance and other relevant documents.

(c) "**Federal Government**" shall be the United States of America; the Department of Justice, the Bureau of Indian Affairs or any other agency or instrumentality, corporate or otherwise of the United States of America.

(d) "**Public Safety Commission**" means the Lac Courte Oreilles Public Safety Commission.

(e) "**Reservation**" or "**Reservation Lands**" means those lands located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(f) "**Tribal Court**" means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(g) "**Tribal Governing Board**" means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.2.010 was formerly codified as X LCOTCL §1.201

**Subchapter PHS.1.3
General**



PHS.1.3.010 Public Safety Commission..... PHS.1.3-1
 PHS.1.3.020 Board of Public Safety Commissioners and Tribal Governing Board Liaison
 PHS.1.3-3
 PHS.1.3.030 Confidential Information PHS.1.3-9
 PHS.1.3.040 Miscellaneous PHS.1.3-10

PHS.1.3.010 Public Safety Commission

The Tribal Governing Board hereby establishes and empowers the Lac Courte Oreilles Public Safety Commission to carry out the intent of this ordinance as further defined herein:

(a) The Tribal Governing Board shall employ an Executive Director who will be responsible for effectuating this Public Safety Commission Code and the duties as defined in the Director's job description. The Executive Director shall be supervised by the Tribal Governing Board.

(1) In the absence of an appointed Executive Director, the Board of Public Safety Commissioners shall effectuate this Public Safety Commission Code and the duties detailed herein.

(b) Pursuant to Tribal Governing Board Resolution No. 15-17, in the implementation of Section TCT.1.3.030, the Tribal Governing Board thereby gave its consent to a limited waiver of immunity from suit which it does not otherwise have pursuant Section TCT.1.3.020; thereby waiving the Tribe's sovereign immunity only to the limited extent necessary, as required by Wis. Stat. §165.92(3m)(a)1 and §66.0313(4)(a)1, to allow the enforcement in state courts of its liability in actions against the Tribe and its Tribal Officers while acting within the scope of their employment pursuant to this ordinance.

(c) The Public Safety Commission, acting through its Executive Director, shall have the following powers which it may exercise consistent with the purposes for which it has been established:

(1) To adopt and use a corporate seal.

(2) To enter into agreements, contracts and understandings with any governmental agency, Federal, state or local or with any person, partnership, corporation or Indian

tribe; and to agree to any conditions attached to the administration of the activities of the public safety agencies of the Tribe.

(3) To oversee the activities of the public safety agencies of the Tribe and the public safety needs of members and such other persons or entities the Public Safety Commission may serve;

(4) To provide oversight of ongoing public safety activities;

(5) To receive and address citizen grievances under the relevant public safety agency policies and procedures;

(6) To provide oversight in the creation and review of policies governing the activities of the public safety agencies of the Tribe, and other such policies as requested by the Executive Director or the Tribal Governing Board;

(7) To provide oversight on the development of a Strategic Plan on public safety;

(8) To provide oversight in the long range planning of the Public Safety operations;

(9) To provide oversight on the development of the annual budgets of the public safety agencies of the Tribe; and

(10) To provide oversight as directed by the Tribal Governing Board on matters relevant to the Public Safety Commission and the purposes defined in Section PHS.1.1.040 of this ordinance.

(d) It is the purpose and intent of this ordinance to authorize the Public Safety Commission to secure the financial aid or cooperation of the Federal, state or local governments in the administration of the activities of the public safety agencies of the Tribe.

(e) No ordinance or other enactment of the Tribe with respect to the administration of the activities of the public safety agencies of the Tribe shall be applicable to the Public Safety Commission in its operations pursuant to this ordinance.

(f) The Tribal Governing Board does not by the adoption of this ordinance consent to any authorization not accountable to the Tribal Governing Board.

(g) The Executive Director shall submit the following reports to the Tribal Governing Board with copies to the Board of Public Safety Commissioners;

(1) Monthly Report showing:

(A) Summary of the prior month's activities;

(B) Financial condition of the Public Safety Commission and its public safety agencies;

(C) Any significant problems and accomplishments;

(D) Plans for the future;

(E) Such other information as the Executive Director, the Board of Public Safety Commissioners, or the Tribal Governing Board deems pertinent.

(2) Annual Report showing;

(A) Summary of the above concerns addressed in the monthly report;

(B) Long-term plans and goals for the Public Safety Commission.

(h) The annual budgets of the public safety agencies of the Tribe must be approved by the Tribal Governing Board as well as any other operating budgets of the Public Safety Commission.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.3.010 was formerly codified as X LCOTCL §1.301

PHS.1.3.020 Board of Public Safety Commissioners and Tribal Governing Board Liaison

The Board of Public Safety Commissioners is hereby created to act in an advisory capacity to the Tribal Governing Board and the Public Safety Commission Executive Director and shall have those powers as stated in this section:

(a) The Tribal Governing Board, by formal action, shall appoint a Liaison(s) which shall be appointed to facilitate communication and coordination between the Tribal Governing Board and the Board. The Tribal Governing Board Liaison(s) shall not be considered a member of the Board.

(b) Official Powers and Duties. The Board of Public Safety Commissioners shall carry out the following official powers and duties:

(1) To advise the Tribal Governing Board and Executive Director of the Public Safety Commission on the activities of the public safety agencies of the Tribe and the public safety needs of members and such other persons or entities the Public Safety Commission may serve;

(2) To serve as an adjudicatory board for citizen grievances under the relevant public safety agency policies and procedures;

(3) To provide advice on the in the creation and review and provide recommendations on policies governing the activities of the public safety agencies of the Tribe, and other such policies as requested by the Executive Director or the Tribal Governing Board;

(4) To provide advice on the development of a Strategic Plan on public safety;

(5) To provide advice in the long range planning of the Public Safety operations;

(6) To provide advice on the development of the annual budgets of the public safety agencies of the Tribe;

(7) To provide advice as directed by the Tribal Governing Board or requested by the Executive Director on matters relevant to the Public Safety Commission and the purposes defined in Section PHS.1.1.040 of this ordinance; and

(8) None of the aforementioned powers and duties may be construed or interpreted to empower the Board beyond the capacity of advisory in nature as more fully defined in Section PHS.1.3.020(h), below.

(c) Organization. The Board of Public Safety Commissioners shall be organized in accordance with the following guidelines;

(1) The Board of Public Safety Commissioners shall be composed of seven (7) persons, all of whom must be citizens (members) of the Tribe. Applications for appointment must meet the qualifications set forth in this ordinance. In no case shall a sitting Tribal Governing Board member, or an employee of the Public Safety Commission, or an employee of any of the public safety agencies of the Tribe be appointed as a Board Member. No individual Commissioner, regardless of position, acting alone and without Board of Public Safety Commissioner approval is empowered or authorized to take any action or make any public statement regarding the Public Safety Commission, the public safety agencies of the Tribe, or Board of Public Safety Commissioners' positions on any matter. There shall be no limit on the number of terms any Commission member can serve, subject to any provision in the Tribal Constitution and Bylaws to the contrary.

(2) The Tribal Governing Board shall recruit and post vacancies of the Board to be filled from the tribal citizenry (membership). Applications shall be developed by the Tribal Governing Board.

(3) With the consensus of the Tribal Governing Board, the Chairperson may appoint up to two (2) non-voting members to the Board with expertise in a field relevant to the Board's work. Such ex officio Commissioners need not be enrolled members of the Band. The duration of any such ex-officio appointment shall be established by the Board

at the time of appointment. These ex officio Commissioners may also serve as Emergency Response Team personnel.

(4) Applicants and recommended ex officio Commissioners shall submit to a background investigation for a determination of eligibility by the Tribal Governing Board. Applicants shall be required to cooperate with the fingerprint process and provide all relevant information to facilitate the investigation.

(d) Qualifications. Applicants for appointment to the Board of Public Safety Commissioners must satisfy the following requirements:

(1) Be an enrolled citizen (member) of the Tribe.

(2) Be at least 21 years of age.

(3) Have obtained a High School Diploma or GED equivalent or a degree of Higher Education.

(4) Have no prior record of, or entry of a plea of no contest to, any of the following in any tribal, county, state or federal court, unless pardoned:

(A) A felony.

(B) Fraud or misrepresentation in any connection.

(5) Shall not be employed by any of the public safety agencies of the Tribe and shall not be an employee of the Public Safety Commission.

(6) Shall not be primarily employed in a tribal director or management position that will impede the availability as a member of the Board.

(7) Shall not be an elected tribal official.

(8) Shall have demonstrated expertise, knowledge, or credentials in one or more of the following areas for consideration of sitting on the Board; Law enforcement, fire prevention and/or detection, conservation enforcement and/or the exercise of treaty hunting, fishing or gathering rights. The Board shall set the standards for expertise expected of all Commissioners.

(9) Shall comply with an approved code of ethics.

(e) Term. The Tribal Governing Board may appoint applicants, who meet the qualifications established in Section PHS.1.3.020(c) above, to the Board of Public Safety Commissioners as follows:

(1) All members of the Board shall be appointed for three (3) year, staggered terms, except that in the case of prior vacancy, an appointment shall be only for the length of the unexpired term.

(2) The Tribal Governing Board shall appoint a Commissioner for all vacancies to the Board of Public Safety Commissioners as soon as reasonably possible.

(3) Appointments shall occur on the anniversary date of the Commissioner's appointment, unless otherwise scheduled due to reasons of death, resignation or removal. Each member of the Board shall hold office until his or her successor has been appointed. All expirations shall occur on September 30th of each year and all appointments shall commence on October 1st of each year.

(4) A member of the Board may be removed by formal action of the Tribal Governing Board for neglect of duty, conflict of interest, malfeasance in office, unexcused absences of more than three consecutive regular meetings, or other due cause in the TGB's sole discretion. The decision of the TGB regarding any such removal shall be final and not subject to appeal.

(5) The Commissioners shall be appointed, and may be reappointed, by the Tribal Governing Board. Formal notification by the Tribal Governing Board as to the appointment or reappointment of any Commissioner shall be conclusive evidence of the due and proper appointment.

(f) Officers. Officers of the Board of Public Safety Commissioners shall be Chairman, Vice-Chairman, and Secretary. The Tribal Governing Board shall name one of the Board Member's as the Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, and a Secretary. All officers shall serve one-year periods. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and the Vice-Chairman, the Secretary shall preside.

(g) Meetings.

(1) Quorum. A majority of the full Board shall constitute a quorum necessary to conduct Board business but no action shall be taken by a vote of less than a majority of such full Board.

(2) Voting. All Commissioners are entitled to vote on all issues. At the call of the question, by any one member on a particular issue, voting shall take place thereon. Voting by proxy representation shall be prohibited.

(3) Regularity of Meetings. Regular meetings of the Board shall be held monthly on the second Tuesday of the month or at a time agreed upon by the Board and the Executive Director. Special meetings may be held at the discretion of the Chairperson or

by request of four (4) Commissioners. Regular and Special meetings notices must be posted. Special meetings shall be limited to only the stated agenda and no regular business may be conducted.

(4) Proceedings. All deliberations of the Board of Public Safety Commissioners, except in Executive Session shall be recorded. The Secretary shall keep complete and accurate records (minutes) of all meetings of the Board. Minutes of all meetings shall be distributed to Commissioners prior to the next meeting. Minutes shall be provided to the Tribal Governing Board upon adoption by the Board.

(5) Executive Sessions. The Board of Gaming Commissioners may consider the following matter(s) in executive (closed) sessions, but action taken regarding the matter(s) discussed in executive session shall be done in open session:

(A) Conferring with the tribal attorney who is rendering oral or written legal advice concerning strategy to be adopted by the Board of Public Safety Commissioners with respect to litigation in which it is or likely to become involved;

(B) Administrative status of confidential matters such as investigations and complaints;

(C) Be advised of personnel decisions made by the Executive Director.

(6) Annual Budget / Compensation of Board of Public Safety Commissioners.

(A) The Board shall review the annual operation budget of the public safety agencies of the Tribe and the Public Safety Commission. Once reviewed, such budget shall be recommended to the Tribal Governing Board for approval as part of the tribal annual budget adoption process.

(B) Appointed members of the Public Safety Commission shall not receive compensation for service as a Commissioner.

(C) Training for Board members to effectively and diligently carry out the powers and duties of this ordinance shall be provided by the Tribal Governing Board as set forth in the annual operation budget of the Public Safety Commission including travel, training/conference registration fees, and lodging costs. Such travel and training cost shall be determined and approved by the Tribal Governing Board Liaison.

(h) Advisory Capacity. The Board of Public Safety Commissioners shall serve in an advisory capacity to the Tribal Governing Board and the Executive Director to promote comprehensive planning, delivery of public safety services and evaluation of the public safety agencies of the Tribe.

(1) "**Advisory Capacity**" to the Tribal Governing Board means that the Board of Public Safety Commissioners shall assist the Tribal Governing Board in understanding the public safety projects and public safety services needs of members and such other persons or entities the public safety agencies of the Tribe may serve. As with other Tribal Committees, Boards and Commissions the Board of Public Safety Commissioners do not supervise the Tribal Governing Board on public safety matters nor is it empowered to require that certain actions be taken or to require or demand that the Tribal Governing Board engage in or approve any particular recommended course of action. The Board of Public Safety Commissioners shall review but does not have approval authority over all required or requested reports that the Executive Director submits to the Tribal Governing Board. Such duty or authority of review does not extend to reports or portions thereof that may be deemed confidential. The Chairperson or the Secretary of the Board of Public Safety Commissioners may also be present at all meetings where the Director is expected to present or submit required or requested reports.

(2) "**Advisory Capacity**" to the Executive Director means that the Board of Public Safety Commissioners shall assist the Executive Director in understanding the public safety projects and public safety services needs of Lac Courte Oreilles Tribal members and such other persons or entities the public safety agencies of the Tribe may serve in the planning and delivery of those services and evaluation of public safety and Department programs. The Board of Public Safety Commissioners is not authorized to supervise the Director on public safety matters or to require or demand that the Director engage in or approve any particular recommendation and shall not be involved in personnel matters of the public safety agencies of the Tribe except upon Tribal Governing Board request and then in only an advisory capacity.

(i) Restrictions.

(1) No commissioner shall be in a position involving a conflict of interest.

(2) No public safety agency employee shall be a commissioner.

(3) No elected official of the Tribal Governing Board shall be a commissioner.

(4) Nothing in this ordinance authorizes the Board to interfere with public safety management, operations, and employment relations or decisions.

(j) Care, Loyalty, and Conflict.

(1) Commissioners shall discharge their duties in good faith and in a manner that the member reasonably believes is in the best interest of Commission, and with due diligence that an ordinarily prudent person in a like position would exercise under

similar circumstances. It is expected that all Commissioners will work in a competent and professional manner that reflects favorably on the Tribal Governing Board and the Tribe.

(2) Commissioners shall, at all time, subordinate their personal interests to those of the public safety agencies of the Tribe and the Board of Public Safety Commissioners and shall avoid conflicts of interest, including without limitation, that no Commissioner shall exploit information related to the authority of the public safety agencies of the Tribe, the Public Safety Commission, or the Board of Public Safety Commissioners for their own personal gain or profit without first presenting the same to the Board of Public Safety Commissioners or shall obtain any personal gain or profit from any transaction with the Public Safety Commission without fully disclosing such involvement and benefit to the Public Safety Commission and obtaining a waiver of any such conflict.

(3) No Commissioner shall commit any act with respect to the public safety agencies of the Tribe, the Public Safety Commission, or the Board of Public Safety Commissioners that is illegal, fraudulent, or willfully unfair to either the public safety agencies of the Tribe, the Public Safety Commission, or the Board of Public Safety Commissioners, or any employees of said departments.

(k) Personal Liability and Immunity.

(1) To the fullest extent permitted by law, the Tribe shall indemnify members of the Board of Public Safety Commissioners, and its officers, against costs, expenses, and liabilities incurred by them in carrying out their official duties as members of the Board and its officers.

(2) The Board of Public Safety Commissioners, as a delegated body of the Tribal Governing Board pursuant to the Lac Court Oreilles Constitution, Article V, §§ 1 (m) and (n), is immune, as is the Tribe, from suit and legal process in any state, federal or tribal court. Except as provided for in Section PHS.1.3.010(b) of this ordinance, the Lac Court Oreilles Band of Lake Superior Chippewa Indians does not waive any aspect of its sovereign immunity.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.3.020 was formerly codified as X LCOTCL §1.302

PHS.1.3.030 Confidential Information

(a) All members of the Board of Public Safety Commissioners understand, acknowledge, and agree by virtue of service on the Commission that the performance of their duties and responsibilities and obligations under this ordinance shall occur mainly within the territory of the Tribe as set forth in Article I, § 1 of the Lac Courte Oreilles Tribal Constitution; that

they have read and understand the duties and responsibilities, obligations, and all other provisions of this ordinance; and that they have agreed to abide by the same.

(b) The Board of Public Safety Commissioners, or any employee or agent of the Public Safety Commission may have access to confidential information obtained by the Public Safety Commission, only as authorized or permitted by the Tribal Governing Board or authorized under this ordinance.

(c) Any member of the Board of Public Safety Commissioners, or any employee or agent of the Public Safety Commission who releases any information without approval from the Tribal Governing Board, or uses any information or personal gain, that is part of an ongoing investigation by any tribal safety agency of the Tribe shall be subject to sanctions, including dismissal from the Board of Public Safety Commissioners, or the Public Safety Commission and criminal penalties under Federal, State or Tribal law.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.3.030 was formerly codified as X LCOTCL §1.303

PHS.1.3.040 Miscellaneous

(a) All members of the Board of Public Safety Commissioners understand, acknowledge, and agree by virtue of service on the Commission that the performance of their duties and responsibilities and obligations under this ordinance shall occur mainly within the territory of the Tribe as set forth in Article I, § 1 of the Lac Courte Oreilles Tribal Constitution; that they have read and understand the duties and responsibilities, obligations, and all other provisions of this ordinance; and that they have agreed to abide by the same.

(b) The Board of Public Safety Commissioners, or any employee or agent of the Public Safety Commission may have access to confidential information obtained by the Public Safety Commission, only as authorized or permitted by the Tribal Governing Board or authorized under this ordinance.

(c) Any member of the Board of Public Safety Commissioners, or any employee or agent of the Public Safety Commission who releases any information without approval from the Tribal Governing Board, or uses any information or personal gain, that is part of an ongoing investigation by any tribal safety agency of the Tribe shall be subject to sanctions, including dismissal from the Board of Public Safety Commissioners, or the Public Safety Commission and criminal penalties under Federal, State or Tribal law.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.3.040 was formerly codified as X LCOTCL §1.303

**Subchapter PHS.1.4
Adjudicatory Board for Disciplinary Actions**



PHS.1.4.010 Disciplinary Proceedings..... PHS.1.4-1
 PHS.1.4.020 Administrative Leave: Public Safety Employees PHS.1.4-8

PHS.1.4.010 Disciplinary Proceedings

(a) Purpose.

(1) Disciplinary actions may be commenced against an employee of a public safety agency of the Tribe, by the Chief of the public safety agency, for violations of departmental Standard Operating Procedures, or laws of the Tribe, or other government. Discipline may range from a verbal warning to termination.

(A) In serious matters, an internal investigation is conducted by the Public Safety Commission and the law enforcement officer under investigation may be placed on administrative leave pursuant to Section PHS.1.4.020 of this ordinance.

(2) In order to ensure due process to agency personnel, a public safety agency employee has the right to appeal a disciplinary action to the Public Safety Commission.

(3) Disciplinary actions may be ordered by the Chief of the public safety agency. The public safety agency employee may appeal a disciplinary action to the Public Safety Commission. Upon filing of an appeal, the Chief of the public safety agency shall submit formal charges against the officer to the Public Safety Commission.

(4) Any citizen may file charges or a complaint against a public safety agency employee with the Chief of the public safety agency. The Public Safety Commission can proceed with a hearing after an investigation by the agency Chief.

(5) If a citizen wishes to file a complaint with the Public Safety Commission, the Public Safety Commission will refer the complaint to the Chief of the public safety agency to begin an investigation. Upon completion of the investigation the Chief of the public safety agency shall submit his written report to the Commission.

(b) Commencement of Disciplinary Hearings. A request for an appeal of a decision of the Chief of a public safety agency must be submitted in writing to the Human Resource Director, or designee within three (3) calendar days.

(1) If the request is by a public safety agency employee or a citizen against a public safety agency employee, the Human Resource Director, or designee must without delay, notify the Executive Director of the Public Safety Commission and the Chief of the public safety agency that a hearing has been requested.

(2) The Board of Public Safety Commissioners must meet within ten calendar days and set a hearing date.

(3) The Board of Public Safety Commissioners has the right to extend hearing dates for cause.

(c) Rights and Responsibilities of the Board of Public Safety Commissioners at Hearings.

(1) The Board of Public Safety Commissioners shall have legal counsel and court reporter present at all formal proceedings.

(2) The Board of Public Safety Commissioners has the authority to subpoena witnesses.

(3) Hearing procedures that may be unique to a particular hearing shall be established prior to the hearing.

(4) Disciplinary hearings shall be open, except where:

(A) the person subject to discipline requests in writing that the hearing be closed; or

(B) the Chief of the public safety agency requests in writing that the hearing be closed and indicates that confidential public safety matters are involved.

(5) Commissioners shall not discuss the disciplinary matter with anyone outside the Commission until the hearing is completed and a decision is filed.

(d) Rights of the Accused Public Safety Employee at Hearings.

(1) Notice of charges that have been made, or will be made, as well as actions that will or may be taken against the individual.

(2) The right to a hearing to respond to the charges.

(3) The right to representation at the individual's expense.

(4) The right to confront and cross-examine his/her accusers.

(5) The right to present evidence and argue his/her view of the facts.

(e) Pre-Hearing Conference.

(1) A pre-hearing conference shall be scheduled at least five (5) working days before the hearing. The law enforcement officer and the complainant shall be notified in writing of the pre-hearing conference and both may be represented.

(2) The following matters shall be accomplished at the conference:

(A) Witness lists and any prior written or recorded statements or reports of witnesses will be exchanged between the parties or their representatives.

(B) Exhibit lists will also be exchanged between the parties or their representatives, and each party and/or their representative shall be permitted to physically inspect all exhibits of the other party.

(C) Witnesses or exhibits not on the pre-hearing conference lists may not be introduced at the hearing unless the Public Safety Commission determines that the party or their representative can demonstrate a satisfactory reason for the inclusion of such witness or exhibit on the list(s) submitted at the pre-hearing conference.

(D) In the absence of the party or representative at the pre-hearing conference, the Board of Public Safety Commissioners shall dismiss the charges unless the party or the representative can demonstrate a satisfactory reason for non-appearance.

(f) Hearing Procedure.

(1) The nature of a public safety agency requires the highest level of public trust. As a result, hearings will be open to the public to allow the public to be reassured that hearings are conducted under the highest standards of objectiveness and reason.

(2) The Chairperson of the Board of Public Safety Commissioners has the duties of:

(A) Presiding over the hearing.

(B) Maintaining order.

(C) Ensuring that the hearing is fair and impartial.

(3) The Chairperson may elect to use an attorney or experienced hearing examiner to assist in conducting the hearing.

(4) Order of Business.

(A) The Chairperson calls the meeting to order and:

(B) Explains that the Public Safety Commission is not an investigative body.

(C) Describes the hearing as a formal inquiry into the facts of the matter in front of them as an original hearing body.

(D) The Chairperson reads the charges, as filed with the Public Safety Commission, and cites the rule(s) and/or policy(s) that were alleged to be violated.

(E) Testimony begins with the person(s) who filed the charges.

(i) Witnesses, evidence, documents, and other related reports will be submitted by the Chief of the public safety agency or complainant.

(ii) Witnesses testify under oath which can be administered by the President or any other Commissioner.

(iii) Any Commissioner may ask questions but they must be relevant to the issues at hand. It is the President's responsibility to ensure that the questions are germane.

(iv) The public safety employee or representative may challenge the testimony or evidence presented.

(F) The law enforcement officer or representative is given an opportunity to present facts, introduce evidence, and call witnesses to prove:

(i) That the law enforcement officer was wrongly charged.

(ii) The penalty is not appropriate for the violation.

(G) The complainant may challenge any testimony offered by the accused.

(i) Both sides are allowed to present closing summaries of their position.

(ii) The Chairperson then adjourns the hearing.

(H) The Board of Public Safety Commissioners retires to executive session to deliberate upon the matter.

(g) Just Cause Standard Applied to Commission Deliberations. The Commissioners shall base their decisions regarding a disciplinary action upon the "just cause" standard.

(1) Whether the public safety employee could reasonably be expected to have had knowledge of the probable consequences of the alleged misconduct.

(2) Whether the procedure the public safety employee allegedly violated is reasonable.

(3) Whether the Chief of the public safety agency, before filing charges against the public safety employee, made a reasonable effort to discover whether the public safety employee did, in fact, violate a procedure.

(4) Whether the investigation was fair and objective.

(5) Whether the Chief of the public safety agency discovered substantial evidence that the public safety employee violated the procedure as described in the charges filed against the public safety employee.

(6) Whether the Chief of the public safety agency is applying the rule or order fairly and without discrimination against the public safety employee.

(7) Whether the proposed discipline is reasonable as it relates to the seriousness of the alleged violation and to the public safety employee's record of service with the Tribe.

(h) Public Safety Commission Actions.

(1) The Public Safety Commission may on appeals, review a disciplinary action taken by the Chief of a public safety agency, and:

(A) Approve the action taken by the Chief of a public safety agency without change.

(B) Dismiss or modify the charge(s) made by the Chief of a public safety agency.

(C) Modify any penalty imposed by the Chief of a public safety agency.

(D) Void the action taken by the Chief of a public safety agency.

(2) The Public Safety Commission may impose any of the following penalties, but is not limited to the penalties listed herein.

(A) Verbal consultation

(B) Written reprimand.

(C) Suspension without pay.

(D) Demotion in rank.

(E) Termination of employment.

(3) The Public Safety Commission's findings shall be in writing and include:

(A) A statement of all charges filed.

(B) The specific rule(s), policy(s), or standard(s) of conduct violated.

(C) A list of charges that the Public Safety Commission found were proven.

(D) A summary of the disciplinary actions considered by the Public Safety Commission.

(E) The disciplinary action ordered by the Public Safety Commission and any special actions attached to the approved disciplinary action.

(4) In acting on a complaint including a request for termination of employment, filed with the Public Safety Commission, the Public Safety Commission may:

(A) Dismiss the complaint.

(B) Dismiss or modify certain charges filed.

(C) Conclude that the testimony and evidence sustain the charges and impose a penalty.

(D) Allow the Public Safety Commission the power to hire an outside agency to conduct the investigation of allegations against the Chief of the public safety agency.

(i) Appeals of Commission Findings. Appeals of Public Safety Commission's ruling shall be made to the Lac Courte Oreilles Tribal Court.

(1) Hearing before the Lac Courte Oreilles Tribal Court. Either party may request a review of the Public Safety Commission's ruling by the Tribal Court. The Tribal Court review will be limited to the information presented to the Public Safety Commission and the limited review is to ensure that the Due Process rights of the Employee and the Public Safety Agency were protected and followed. If the Court finds any deficiencies in the Public Safety Commission's decision, it shall remand the matter back the Public Safety Commission for further review consistent with the Tribal Court findings. Each party shall have five (5) working days to submit their request for Tribal Court review of the Public Safety Commission's decision; failure to abide by the timeline stated in this section shall be deemed a waiver of the disciplinary appeal and the appeal shall be terminated; the Public Safety Commission's decision shall be deemed as final.

(A) The Tribal Court shall have the discretion to decide whether to schedule a hearing in any appeal of a disciplinary action taken by the Chief of the public safety agency.

(B) The Tribal Court may issue a decision without a hearing after reviewing the decision of the Public Safety Commission and the evidence submitted during the grievance and appeal processes.

(C) In all cases, the Tribal Court shall review the findings of fact and conclusions of law solely to determine whether the appeals committee committed clear error. "Clear error" means that the decision is not reasonably supported by the facts or law.

(D) If the Tribal Court determines that clear error occurred regarding all violations and procedural steps established in this section were not followed, it shall uphold/overturn the decision of the Public Safety Commission and order that the employee's personnel file reflect such decision; that the employee be restored to his or her previous position and that all the benefits which may have been withheld shall be credited to the employee as if no disciplinary action had ever occurred. Upon return to work, the Human Resource Director will meet with the employee and Chief of the public safety agency and develop a work reinstatement plan including specific timelines and tasks for reintroduction into the workforce.

(E) If the Tribal Court determines that clear error occurred regarding only a portion, but not all of the violations, it shall uphold/overturn the decision of the Tribal Court only regarding such violations and may, but is not required to, order such adjustments as it deems proper, including that the employee's personnel file reflect such decision; that the employee shall be restored to his or her previous position and that all or a portion of the benefits which may have been withheld shall be credited to the employee as if no disciplinary action had ever occurred. Upon return to work, the Human Resource Director will meet with the employee and the department head or director and development a work reinstatement plan including specific timelines and tasks for reintroduction into the workforce.

(F) If the Tribal Court determines that clear error did not occur regarding any violation and the procedural steps established in this section were followed, it shall uphold/overturn the decision of the Tribal Court; and shall uphold all disciplinary measures taken by Management without substituting its judgment for that of Management.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.4.010 was formerly codified as X LCOTCL §1.401

PHS.1.4.020 Administrative Leave: Public Safety Employees

(a) General. Administrative leave is an action commenced by the Chief of a public safety agency affecting the status of a public safety employee. A public safety employee is temporarily relieved of all public safety powers while on administrative leave. The public safety employee continues to receive salary and is responsible to report to the Chief of the public safety agency or perform other duties as assigned. Administrative leave does not denote wrong-doing on the part of the public safety employee

(b) Applicability. Administrative leave may only be ordered in the following circumstances:

(1) The public safety employee poses a threat to themselves or others.

(2) The public safety employee is alleged to have committed a violation(s) which calls for termination of his or her employment as a public safety employee.

(3) The public safety employee is alleged to have committed a violation(s) that is under investigation and that would cause a loss of public trust in the public safety agency of the Tribe.

(4) The public safety employee is under investigation for alcohol or drug abuse.

(5) The public safety employee is under investigation for insubordination, untruthfulness, or commission of a crime.

(6) The public safety employee demonstrates behavior indicating the public safety employee is unfit for duty.

(c) Duration of Administrative Leave.

(1) In cases where the public safety employee is under formal investigation, the public safety employee will remain on administrative leave until the investigation is completed.

(A) If the investigation results in allegations being sustained, the public safety employee will remain on administrative leave pending issuance of discipline.

(B) If the investigation results in a finding that the charges were unfounded or not sustained, the public safety employee shall be immediately returned to active duty status.

(2) In cases where the law enforcement officer is placed on administrative leave for other matters not involving formal investigation, the law enforcement officer shall be returned to active duty status upon order of the Chief of the public safety agency. The

period of administrative leave in incidents not involving investigation shall not exceed thirty working days.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.4.020 was formerly codified as X LCOTCL §1.402

**Subchapter PHS.1.5
Establishment of Tribal Police**



PHS.1.5.010 General Principles PHS.1.5-1
 PHS.1.5.020 Chief of Police PHS.1.5-2
 PHS.1.5.030 Duties of the Chief of Police PHS.1.5-2
 PHS.1.5.040 Law Enforcement Officer Appointment PHS.1.5-3
 PHS.1.5.050 Law Enforcement Officer Qualifications PHS.1.5-3
 PHS.1.5.060 Conditional Employment PHS.1.5-4
 PHS.1.5.070 Duties of a Law Enforcement Officer PHS.1.5-4
 PHS.1.5.080 Dismissal of a Law Enforcement Officer PHS.1.5-5
 PHS.1.5.090 Deputizing and Scope of Authority PHS.1.5-5
 PHS.1.5.100 Police Training..... PHS.1.5-5

PHS.1.5.010 General Principles

(a) All operations shall take place on and within the reservation unless there is a potential that safety and welfare of an individual is being compromised. In addition, law enforcement operations may take place pursuant to mutual aid and other agreements with local governments.

(b) All law enforcement operations shall be conducted as set forth in this ordinance.

(c) Law enforcement operations shall be used primarily for the purposes of providing law enforcement within the reservation and to supplement external law enforcement services offered by local governments within the reservation.

(d) The Police Department may allow law enforcement use of service firearms in order to protect life, liberty, property, land and premises, according to the usual and minimum accepted law enforcement standards as determined by the Police Chief with approval of the Public Safety Commission. However, actual use of deadly force shall be allowed solely for the protection of life or the prevention of grievous bodily harm.

(e) The Public Safety Commission and Board of Public Safety Commissioners, as established by this ordinance, shall provide oversight regarding the activities and actions of

the law enforcement operations to provide the greatest possible professional services to the reservation and to allow for community input regarding those law enforcement services.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.5.010 was formerly codified as X LCOTCL §1.501

PHS.1.5.020 Chief of Police

(a) The Tribal Governing Board shall appoint a Chief of Police of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians upon such terms and conditions of employment as the Tribal Governing Board shall direct.

(b) The Chief of Police shall coordinate the law and order program on reservation lands. The Chief of Police shall meet as necessary with the Executive Director of the Public Safety Commission to discuss the law and order program and make recommendations for improving the efficiency of the program. The Chief of Police, in conjunction with the Executive Director, shall review the law and order program and assist in the preparation of the Department's annual budgets and shall administer funds used in the law and order program pursuant to the budget approved by the Tribal Governing Board. Subject to the availability of funding, the Chief of Police, with the concurrence of the Executive Director, shall establish such ranks and appoint and commission officers within the Police Department. The Executive Director of the Public Safety Commission shall supervise the Chief of Police.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.5.020 was formerly codified as X LCOTCL §1.502

PHS.1.5.030 Duties of the Chief of Police

The Chief of Police shall carry out the following official powers and duties:

(a) To be responsible for and have charge over all law enforcement functions within the jurisdiction of the Tribe.

(b) To be in command of the Police Department, all law enforcement officers and Police Department employees.

(c) To instruct, train, and advise law enforcement officers in their functions, duties, and responsibilities for the efficient maintenance of law and order on reservation lands.

(d) To report to the Executive Director of the Public Safety Commission, the Board of Public Safety Commissioners, and the Tribal Governing Board on Tribal Police activities as requested.

(e) To select and recommend persons for appointment to and dismissal from the Police Department consistent with Tribal law.

(f) To provide all law enforcement officers to the Tribal Court to perform bailiff service, service of Court papers or transportation of prisoners if applicable.

(g) To assist the Executive Director of the Public Safety Commission in the development of a Tribal Police policies and procedures manual to serve as a standard of conduct to ensure the efficient maintenance of law and order on reservation lands.

(h) To ensure cooperation with other law enforcement agencies.

(i) To do other law enforcement related activities as the Executive Director of the Public Safety Commission shall direct.

(j) To designate an acting Chief of Police in his absence.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.030 was formerly codified as X LCOTCL §1.503

PHS.1.5.040 Law Enforcement Officer Appointment

Law enforcement officers shall be hired by the Chief of Police. The terms and conditions of employment shall be established by the Executive Director of the Public Safety Commission in accordance with applicable law.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.040 was formerly codified as X LCOTCL §1.504

PHS.1.5.050 Law Enforcement Officer Qualifications

The qualifications of law enforcement officer shall be as follows:

(a) A sound physical and mental condition and ability to perform the required duties as established by this ordinance.

(b) Certification as a law enforcement officer or in attendance at the police academy if not currently certified.

(c) High moral character and absence of conviction of a felony or a Class A misdemeanor.

(d) Within five years of their date of hire, completion of the educational requirements as follows:

(1) Possess a two year associate degree from a vocational, technical, or tribal college;

(2) Possess documentation showing a minimum of 60 fully accredited college level credits. Documentation will be required in the form of an official transcript; or

(3) Possess a bachelor's degree from a college or university.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.050 was formerly codified as X LCOTCL §1.505

PHS.1.5.060 Conditional Employment

Persons who are not certified law enforcement officers at the time of hire, are considered conditional employees and must attain the educational requirements as specified in Section PHS.1.5.050(d) of this ordinance within five years of their date of hire. Conditional employees are not eligible for promotion. Law enforcement officers who fail to meet the specified requirements in Section PHS.1.5.050 of this ordinance, shall be subject to immediate termination.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.060 was formerly codified as X LCOTCL §1.506

PHS.1.5.070 Duties of a Law Enforcement Officer

The duties of a law enforcement officer shall be:

(a) To obey promptly all orders of the Police Chief and/or the ranking law enforcement officers.

(b) To report and investigate all violations of any law or regulation coming to the attention of the Tribal Police Department.

(c) To use discretion as to when to arrest persons for violation of laws and regulations when sufficient grounds exist for doing so.

(d) To lend assistance to other law enforcement officers.

(e) To prevent, whenever possible, violation of the laws.

(f) To be informed as the Lac Courte Oreilles Tribal Code of Law and all other laws and regulations applicable to the lands and jurisdiction of the Tribe and to attend such training sessions as the Chief of Police may direct.

(g) To comply with all rules adopted by the Wisconsin Department of Justice Training and Standards Bureau applicable to law enforcement officers, including rules specifically applicable to Tribal law enforcement officers.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.070 was formerly codified as X LCOTCL §1.507

PHS.1.5.080 Dismissal of a Law Enforcement Officer

A law enforcement officer can be suspended or dismissed for noncompliance with the provisions of this ordinance or other violations of regulations, Tribal Police policies and procedures manual, the Tribes' Employee Manual, standing orders of the department or neglect of duty.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.080 was formerly codified as X LCOTCL §1.508

PHS.1.5.090 Deputizing and Scope of Authority

(a) When authorized by the Tribal Governing Board, law enforcement officers of the Tribe may be deputized by another jurisdiction to aid in the effective law enforcement of the lands and jurisdiction of the Tribe.

(b) When authorized by the Tribal Governing Board, law enforcement officers and law enforcement personnel from other jurisdictions or other departments of the Tribe may be deputized to aid in the enforcement of this ordinance.

(c) When authorized by § 165.92 of the Wisconsin Statutes, Law enforcement officers of the Tribe may exercise the same powers to enforce Wisconsin state laws and to make arrests for violations of such laws as are possessed by other certified law enforcement officers in the State of Wisconsin.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.5.090 was formerly codified as X LCOTCL §1.509

PHS.1.5.100 Police Training

(a) It shall be the goal of the Tribe to attract and retain experienced, professional law enforcement personnel. To this end, the Public Safety Commission shall establish minimum standards of training, which all law enforcement officers shall be required to meet. Further, the Chief of Police shall explore, schedule, and arrange periodic training and retraining programs for law enforcement officers from all available resources. Such programs shall stress not only basic police procedures and techniques, but shall also deal with crime

prevention, community and public relations and other appropriate topics. Training is to be in compliance with the requirements established by the Wisconsin Department of Justice Training and Standards Bureau.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

- * §PHS.1.5.100 was formerly codified as X LCOTCL §1.510

**Subchapter PHS.1.6
Firearms Control**



PHS.1.6.010 General Principles PHS.1.6-1

PHS.1.6.010 General Principles

The Tribe hereby establishes regulations for the carrying of firearms issued to certified law enforcement officers employed by the Tribe.

(a) The needs and requirements for carrying firearms shall be established and determined by the Executive Director of the Public Safety Commission subject to the review of the Board of Public Safety Commissioners.

(b) Said requirements shall reflect the needs of the Tribe in order to protect all persons and property.

(Res. No. 17-122; Res. No. 16-91)

Prior Codifications

* §PHS.1.6.010 was formerly codified as X LCOTCL §1.601

**Chapter PHS.2
Solid Waste Disposal and Recycling Code of the Lac Courte Oreilles Band of Lake Superior
Chippewa Indians**



PHS.2.1 General Provisions PHS.2.1-1
PHS.2.2 Definitions PHS.2.2-1
PHS.2.3 General PHS.2.3-1
PHS.2.4 General PHS.2.4-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, to promote and protect the land, water, health, safety, and well-being of the Lac Courte Oreilles tribal community and surrounding area and to ensure that efficient and environmentally safe solid waste management procedures are practiced on the Lac Courte Oreilles Reservation, which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "To promulgate and enforce ordinances...providing for the maintenance of law and order and the administration of justice..." Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby regulates solid waste and recycling by providing procedural guidelines and planning for the administration and enforcement of ordinance violations. This ordinance applies to the disposal and recycling activities of citizens (members) on the Lac Courte Oreilles Reservation. Further, this ordinance applies to residences, tribal programs and tribal enterprises located within the exterior boundaries of the reservation.

Subchapter PHS.2.1 General Provisions



PHS.2.1.010 Title PHS.2.1-1
 PHS.2.1.020 Authority..... PHS.2.1-1
 PHS.2.1.030 Purpose..... PHS.2.1-1
 PHS.2.1.040 Territorial Applicability..... PHS.2.1-2
 PHS.2.1.050 Effective Date..... PHS.2.1-2
 PHS.2.1.060 Interpretation PHS.2.1-2
 PHS.2.1.070 Severability and Non-Liability..... PHS.2.1-3
 PHS.2.1.080 Repeal of Inconsistent Tribal Ordinances..... PHS.2.1-3

PHS.2.1.010 Title

This ordinance shall be known as the Solid Waste Disposal and Recycling Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.1.010 was formerly codified as X LCOTCL §2.101

PHS.2.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, §§ 1(s) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "To promulgate and enforce ordinances...providing for the maintenance of law and order and the administration of justice..."

(Res. No. 16-31)

Prior Codifications

* §PHS.2.1.020 was formerly codified as X LCOTCL §2.102

PHS.2.1.030 Purpose

The purpose of this ordinance is to promote and protect the land, water, health, safety, and well-being of the Lac Courte Oreilles tribal community and surrounding area. Further, to ensure that efficient and environmentally safe solid waste management procedures are practiced on the Lac Courte Oreilles Reservation: to regulate solid waste and recycling by providing procedural guidelines and planning for the administration and enforcement of

ordinance violations. This ordinance applies to the disposal and recycling activities of citizens (members) on the Lac Courte Oreilles Reservation. Further, this ordinance applies to residences, tribal programs and tribal enterprises located within the exterior boundaries of the reservation.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.1.030 was formerly codified as X LCOTCL §2.103

PHS.2.1.040 Territorial Applicability

This ordinance shall govern the practice of solid waste management procedures subject to the provisions of this ordinance by members and non-members within Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.1.040 was formerly codified as X LCOTCL §2.104

PHS.2.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.1.050 was formerly codified as X LCOTCL §2.105

PHS.2.1.060 Interpretation

The provisions of this ordinance:

- (a) Shall be interpreted and applied as minimum requirements applicable to the Housing Authority activities subject to this ordinance;
- (b) Shall be liberally construed in favor of the Tribe;
- (c) Shall not be deemed a limitation or repeal of any other tribal power or authority.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.1.060 was formerly codified as X LCOTCL §2.106

PHS.2.1.070 Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.1.070 was formerly codified as X LCOTCL §2.107

PHS.2.1.080 Repeal of Inconsistent Tribal Ordinances

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.1.080 was formerly codified as X LCOTCL §2.108

Subchapter PHS.2.2 Definitions



PHS.2.2.010 General Definitions PHS.2.2-1

PHS.2.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) "**Citizen**" means an enrolled member of the Lac Courte Oreilles Lake Superior Band of Chippewa Indians.

(b) "**Collector**" means any person or business who collects and transports solid waste and recyclable materials.

(c) "**Garbage**" means animal and vegetable waste resulting from the handling, preparation, cooking, and/or consumption of foods.

(d) "**Hazardous Solid Waste**" means any substance or combination of substances including any waste of a solid, semi-solid, liquid, or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration, or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, radioactive, corrosive, flammable, irritants, strong sensitizers, pesticides, and explosives.

(e) "**Incinerator**" means a facility where the process of burning solid, semi-solid or gaseous combustible wastes to an inoffensive gas or a residue containing little or no combustible material.

(f) "**Non-Recyclable Material**" means pyrex glass, window glass, light bulbs, mirrors, broken glass, china, styrofoam and melamine type plastics, waxed paper, waxed cardboard, envelopes with gummed labels, glossy paper, magazines, envelopes with plastic windows, garbage, rubbish, telephone directories, bottle or jar caps and any materials for which there is no destination point for reclamation or processing.

(g) "**Open Burning**" means any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed through a stack or chimney, incinerator, or other similar device.

(h) "**Public Nuisance**" means the disposal of solid waste materials in such a manner which is offensive to the surrounding community which affects the general health, welfare, and peace.

(i) "**Recyclable Material**" means brown, clear, and green container glass, aluminum cans, plastic containers with #1 or #2 inside a triangle on the bottom, corrugated cardboard, newspaper, and any material for which there is a destination point named for reclamation or processing.

(j) "**Regulations**" means any conservation regulation contained within this ordinance.

(k) "**Reservation**" or "**Reservation Lands**" means those lands, including the beds of any streams and flowages, located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(l) "**Rubbish**" means combustible and non-combustible refuse, including paper, wood, metal, glass, cloth, litter, yard waste, ashes, lumber, and concrete.

(m) "**Tribe**" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(n) "**Tribal Attorney(s)**" means the tribal attorney(s) employed by the Lac Courte Oreilles Legal Department, whom are in charge of and responsible for the prosecution of citations relating to Conservation.

(o) "**Tribal Conservation Department**" or "**Department**" means the conservation department of the Tribe.

(p) "**Tribal Court**" means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(q) "**Tribal Governing Board**" means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(r) "**Solid Waste**" means all garbage, refuse, rubbish, trash, construction and demolition materials, yard waste, dead animals, and solid materials generated from residential, commercial, and industrial activities. Solid waste does not include hazardous waste and human body waste.

(s) **"White Goods"** means household appliance such as refrigerator, stove, air conditioner, washing machine, dryer, dishwasher, etc.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.2.010 was formerly codified as X LCOTCL §2.201

**Subchapter PHS.2.3
General**



PHS.2.3.010 Transfer Station Site..... PHS.2.3-1
 PHS.2.3.020 Disposal of Solid Wastes, Recyclables, Hazardous..... PHS.2.3-1
 PHS.2.3.030 Administration PHS.2.3-3
 PHS.2.3.040 Fees PHS.2.3-3
 PHS.2.3.050 Penalties PHS.2.3-4

PHS.2.3.010 Transfer Station Site

The Lac Courte Oreilles Solid Waste Transfer Station and Recycling Center is located at the closed landfill site on County Highway NN. The Lac Courte Oreilles Solid Waste Transfer Station and Recycling Center, as such facility is now or may hereafter be expanded or revised, shall be the only location upon which non-hazardous solid wastes and recyclables shall be dropped off. No other site, unless opened and managed by the Lac Courte Oreilles Conservation Department, as directed by the Tribal Governing Board, shall be utilized on the Lac Courte Oreilles Reservation.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.3.010 was formerly codified as X LCOTCL §2.301

PHS.2.3.020 Disposal of Solid Wastes, Recyclables, Hazardous

(a) Waste and General Provisions.

(1) Solid Waste Disposal. Solid Waste disposal of non-recyclable materials shall be disposed of in the designated compacting bin at the Lac Courte Oreilles Solid Waste Transfer Station and Recycling Center, according to sorting guidelines stated in the Lac Courte Oreilles Plan of Operation and posted at the Transfer Station Site. Solid Waste generated by non-tribal members who reside or operate businesses within the reservation boundaries may use the Lac Courte Oreilles Transfer Station and Recycling Center, provided that such waste is placed in "LCO" labeled bags.

(2) Disposal of Recyclables. All recyclable materials as stated in Section PHS.2.2.010(i) of this ordinance shall be sorted, according to guidelines posted at the Transfer Station site, and placed in an unlabeled, clear plastic bag. Recycled materials shall be dropped off in the designated bin at the Transfer Station.

(3) Hazardous Waste. Materials designated as hazardous waste or hazardous substance by this Ordinance or subsequent regulations passed by the Tribal Governing Board shall not be transported for disposal or accepted for disposal at the Lac Courte Oreilles Solid Waste Transfer Station.

(4) General Provisions. Solid Waste generated outside the reservation boundaries of Lac Courte Oreilles may be disposed at the LCO Transfer Station and Recycling Center, at scheduled and posted fees.

(A) It shall be illegal to dispose of solid waste on tribal or allotment lands where disposal of these wastes will cause a public nuisance or health hazard or by causing foul odors to escape or by infestation of rodents.

(B) Solid waste and recyclable materials may be disposed of by private collectors who haul waste off the LCO Reservation. Such private collectors shall be subject to this Ordinance for proper transfer of waste.

(C) Vehicle batteries shall not be disposed of on any lands within the Lac Courte Oreilles Reservation. Batteries shall be properly disposed of at a designated business within or outside the reservation.

(D) Used engine oil shall not be disposed at the LCO Transfer Station and Recycling Center. Proper disposal of engine oil shall be designated through the assistance and cooperation of tribal and private businesses located within and outside the reservation.

(E) Vehicle tires, yard waste, and white goods (household appliances) shall be deposited and stored at the LCO Transfer Station and Recycling Center, at a scheduled and posted fee for certain items.

(F) It shall be illegal to burn solid waste materials in residential burning barrels and business incinerators on the Lac Courte Oreilles Reservation, except by issuance of burning permit.

(G) It shall be illegal to scavenge/salvage any waste materials to retrieve recyclable materials deposited at the LCO Transfer Station and Recycling Center.

(H) It shall be illegal to hunt wild animals in the immediate vicinity of the LCO Transfer Station and Recycling Center, where "No Hunting" signs are posted.

(I) All solid waste, not collected by private collectors and transferred away, shall be disposed at the LCO Transfer Station and Recycling Center in accordance with the stated provisions under Section PHS.2.3.030 of this ordinance, below.

(J) It is unlawful for any person to fail to dispose of solid waste, which may be or may accumulate upon property owned or occupied by him, in a sanitary manner as often as may be necessary to keep said premises in an orderly and sanitary condition. Failure to keep said premises in an orderly and sanitary condition constitutes a public nuisance.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.3.020 was formerly codified as X LCOTCL §2.302

PHS.2.3.030 Administration

(a) Solid waste shall be disposed at the LCO Solid Waste Transfer Station and Recycling Center where an attendant shall monitor the final disposal of sorted waste.

(b) Solid waste shall be disposed in clear plastic bags which are marked "LCO" for non-recyclable material.

(c) Solid waste disposed in "LCO" plastic bags shall include all non-recyclable materials defined in Section PHS.2.2.010(c) and Section PHS.2.2.010(f) of this ordinance.

(d) All other waste which is recyclable shall be disposed of in clear, unlabeled plastic bags.

(e) The LCO Housing Authority shall sell "LCO" labeled clear plastic bags at its offices for convenience of its tenants.

(f) Clear plastic bags labeled with "LCO" shall be available for sale at designated locations, including the LCO Transfer Station and Recycling Center and LCO Commercial Center.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.3.030 was formerly codified as X LCOTCL §2.303

PHS.2.3.040 Fees

Solid waste clear plastic bags shall be labeled "LCO" for use at the Transfer Station. Such fees for the sale of bags shall be adjusted when necessary, with posted notice to the tribal community. Recyclable waste requiring clear plastic bags shall not be subject to a fee

schedule. Such plastic bags must be purchased or obtained by the tribal consumer on an individual basis.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.3.040 was formerly codified as X LCOTCL §2.304

PHS.2.3.050 Penalties

(a) Warning.

(1) The first time a citizen or non-citizen is suspected of violating any provisions of this ordinance, the person shall be given a written warning and advised of the general requirements of this chapter and that a subsequent violation may result in the application of a penalty or forfeiture as provided in this section.

(2) Notwithstanding the provisions of Section PHS.2.3.050(a)(1) above, if an identified name or address is found on mail, a prescription bottle, or any other identifiable article in solid waste discarded in in violation of this ordinance, the citizen or non-citizen is hereby in violation of this ordinance subject to a rebuttable presumption and shall be issued a citation pursuant to Section PHS.2.4.050 of this ordinance and shall clean up the unlawfully discarded solid waste within three (3) days of the issuance of a citation.

(b) Prosecution.

(1) Any person who has been warned in the manner provided in Section PHS.2.3.050(a) above, and who thereafter violates any provisions of this ordinance shall, upon conviction thereof, forfeit not less than Twenty and 00/100 Dollars (\$20.00) nor more than Five Thousand and 00/100 Dollars (\$5000.00), together with the cost of prosecution.

(2) A citizen found guilty of violating this ordinance, whom has failed to pay a fine within the timeframe established by the Tribal Court or whom has failed to properly clean up the unlawfully discarded solid waste within three (3) days of the issuance of a citation pursuant to Section PHS.2.3.050(a)(2) of this ordinance shall have their hunting, fishing, trapping, and gathering rights (both on-reservation and off-reservation) revoked for the period of one (1) year from the date of the issuance of a citation.

(c) The LCO Transfer Station and Recycling Center shall not accept solid waste which is not properly placed into "LCO" clear plastic bags for non-recyclables and ordinary clear plastic bags for recyclable materials.

(d) Sanctions for dumping of hazardous solid waste materials shall be the suspension of the privilege to use the LCO Transfer Station and Recycling Center for a time period designated by the Tribal Court.

(e) Costs of clean-up, prosecution, and court fees shall be assessed upon conviction in the Lac Courte Oreilles Tribal Court, in addition to penalties for violating provisions of the Ordinance.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.3.050 was formerly codified as X LCOTCL §2.305

**Subchapter PHS.2.4
General**



PHS.2.4.010 Hearings in Tribal Court..... PHS.2.4-1
 PHS.2.4.020 Enforcement by Conservation Wardens PHS.2.4-1
 PHS.2.4.030 Enforcement by Other Law Enforcement Officers..... PHS.2.4-2
 PHS.2.4.040 Investigations..... PHS.2.4-2
 PHS.2.4.050 Issuance of Citations PHS.2.4-2
 PHS.2.4.060 Penalties PHS.2.4-3
 PHS.2.4.070 Enhancement of Forfeiture and Penalties..... PHS.2.4-3
 PHS.2.4.080 Schedule of Money Penalties; No Contest PHS.2.4-4
 PHS.2.4.090 Collection of Money Penalties PHS.2.4-4
 PHS.2.4.100 Parties to a Violation PHS.2.4-4
 PHS.2.4.110 Interference with Department PHS.2.4-5

PHS.2.4.010 Hearings in Tribal Court

Jurisdiction over all matters arising under this ordinance shall be with the tribal court which shall adjudicate in accordance with Title II of the Lac Courte Oreilles Tribal Code of Law all questions, complaints and alleged violations involving the provisions of this ordinance.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.010 was formerly codified as X LCOTCL §2.401

PHS.2.4.020 Enforcement by Conservation Wardens

Any provision of this ordinance may be enforced by wardens of the tribal conservation department or officers of the tribal law enforcement department. Said tribal law enforcement officers are hereby deputized by the Tribe as tribal conservation wardens for the purpose of enforcing this ordinance. The Conservation Department shall develop and implement department rules to administer daily responsibilities pursuant to this Ordinance.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.020 was formerly codified as X LCOTCL §2.402

PHS.2.4.030 Enforcement by Other Law Enforcement Officers

The Tribal Governing Board has the discretion to allow other state, local or federal law enforcement officers the authority to enforce the provisions of this ordinance and to institute proceedings in the tribal court by use of citation forms of the tribal conservation department or to refer the matter to appropriate tribal wardens or the tribal prosecutor for further investigation or action.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.030 was formerly codified as X LCOTCL §2.403

PHS.2.4.040 Investigations

(a) Any person authorized to enforce the provisions of this ordinance may:

(1) Investigate complaints regarding alleged violations of this ordinance within the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(2) Execute and serve warrants and other process issued by the tribal court in accordance with applicable law;

(3) Exercise reasonable discretion and judgment in enforcing and applying any provision of this ordinance.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.040 was formerly codified as X LCOTCL §2.404

PHS.2.4.050 Issuance of Citations

Any person authorized to enforce this ordinance may issue a citation when any violation of this ordinance occurs in the presence of the enforcement authority or the enforcement authority investigating a report of a violation of this ordinance finds probable cause to believe that a violation has occurred, provided:

(a) The citation is issued on a form approved by the Tribal Governing Board or tribal court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such person has violated or breached a provision of this ordinance; and

(b) The citation states the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered) and the section(s) of this ordinance that were violated;

(c) The citation states the date of the initial hearing before the tribal court which shall be no sooner than ten (10) days after the service of the notice;

(d) The citation states the amount of the fine which may be paid by the violator to the tribal court in order to avoid the initial hearing;

(e) The citation states that the failure to pay the amount of the fine or appear before the tribal court on the date set for hearing, shall result in entry of a default judgment and an award of relief in accordance with this ordinance.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.4.050 was formerly codified as X LCOTCL §2.405

PHS.2.4.060 Penalties

(a) If the tribal court finds that any member or duly authorized non-member who, for himself or herself, or by his or her agent, servant or employee, or who as an agent, servant or employee of another, violates this ordinance, the member or non-member shall be liable as follows:

(1) For all violations for which no other amount is specified, a civil remedial forfeiture of not more than \$5,000.00;

(2) For any violation, attendance of cultural education classes;

(3) For all violations, appropriate court costs within the discretion of the court.

(b) Any member or duly authorized non-member who fails to pay any fine assessed by the tribal court within thirty (30) days after the fine has been assessed and who fails to make other arrangements regarding payment of the fine, shall owe, in addition to the fine imposed, \$10.00 for each thirty (30) Day period that the fine is overdue.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.4.060 was formerly codified as X LCOTCL §2.406

PHS.2.4.070 Enhancement of Forfeiture and Penalties

Upon conviction of any member or duly authorized non-member for a violation of this ordinance when such person has been convicted of a previous violation of this ordinance

within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the court deems appropriate.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.070 was formerly codified as X LCOTCL §2.407

PHS.2.4.080 Schedule of Money Penalties; No Contest

The Tribal Court, in consultation with the Tribal Governing Board, may adopt a schedule of forfeitures to be imposed by the Court upon the receipt of an admission that a violation of this ordinance has occurred, or a plea of no contest, which may be done either in person or in writing. This schedule shall not bind the Court as to forfeitures assessed by the Court after adjudicating a violation where the defendant has entered a plea of not guilty.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.080 was formerly codified as X LCOTCL §2.408

PHS.2.4.090 Collection of Money Penalties

Enforcement of the money penalties imposed pursuant to this ordinance may be had through the collection of penalties from funds of the violator held by the Tribe, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

(Res. No. 16-31)

Prior Codifications

- * §PHS.2.4.090 was formerly codified as X LCOTCL §2.409

PHS.2.4.100 Parties to a Violation

(a) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the member or non-member who directly committed it has not been convicted of the violation.

(b) A member or duly authorized non-member is concerned in the commission of the violation if the member or duly authorized non-member:

- (1) Directly commits the violation;
- (2) Aids or abets the commission of it; or

(3) Is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.4.100 was formerly codified as X LCOTCL §2.410

PHS.2.4.110 Interference with Department

No member or non-member shall knowingly interfere with or hinder or restrict wardens of the tribal conservation department or officers of the tribal law enforcement department or any other law enforcement department or agency from which the tribal conservation department has sought assistance, in the exercise of authority or performance of duties under this ordinance.

(Res. No. 16-31)

Prior Codifications

* §PHS.2.4.110 was formerly codified as X LCOTCL §2.411

Chapter PHS.3
Exclusion and Removal Code of the Lac Courte Oreilles Band of Lake Superior Chippewa
Indians



PHS.3.1 Introduction..... PHS.3.1-1
PHS.3.2 General Definitions PHS.3.2-1
PHS.3.3 Exclusion and Removal Policy and Procedure PHS.3.3-1

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide a procedure for excluding and removing nonmembers from the Reservation when it is in the best interest of the Band to do so, including the exclusion and removal of nonmembers who act in disregard of tribal or other applicable law, by destroying real or personal property of the Band, harming its members or Reservation residents, or by endangering or harming the natural, social, psychological or physical well-being of members or other persons on the Reservation which predates its treaties of 1825, 1826, 1837, 1842, 1847, and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice...."

Subchapter PHS.3.1 Introduction



PHS.3.1.010 Title PHS.3.1-1
 PHS.3.1.020 Authority..... PHS.3.1-1
 PHS.3.1.030 Purpose..... PHS.3.1-1
 PHS.3.1.040 Scope PHS.3.1-2
 PHS.3.1.050 Effective Date..... PHS.3.1-2
 PHS.3.1.060 Severability and Non-Liability..... PHS.3.1-2
 PHS.3.1.070 Exclusive Remedy..... PHS.3.1-2
 PHS.3.1.080 Interpretation PHS.3.1-3

PHS.3.1.010 Title

This ordinance shall be known as the Exclusion and Removal of Non-Tribal Members from the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation.

Prior Codifications

* §PHS.3.1.010 was formerly codified as X LCOTCL §1.101

PHS.3.1.020 Authority

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1 (s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice..."

Prior Codifications

* §PHS.3.1.020 was formerly codified as X LCOTCL §1.102

PHS.3.1.030 Purpose

It is the purpose of this chapter to provide a procedure for excluding and removing nonmembers from the Reservation when it is in the best interest of the health, safety and welfare of the Band, or its members, to do so, including the exclusion and removal of nonmembers who act in disregard of tribal or other applicable law, destroy tribal fish and game, trespass upon tribal trust property, pollute tribal lands and waters, destroy real or personal property of the Band, its members or Reservation residents, or endanger or harm

the natural, social, psychological or physical well-being of members or other persons on the Reservation.

Prior Codifications

- * §PHS.3.1.030 was formerly codified as X LCOTCL §1.103

PHS.3.1.040Scope

The Lac Courte Oreilles Tribal Governing Board is authorized to exclude nonmembers from the Reservation and to determine conditions upon which they may remain. Except as provided by this ordinance, all persons, except those authorized by federal law to be present on tribal land, may be excluded and removed from the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation or parts thereof. Any person having an interest in real property on the Reservation may be excluded from any portion of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation as long as he or she is not denied access to or the use of such property.

Prior Codifications

- * §PHS.3.1.040 was formerly codified as X LCOTCL §1.104

PHS.3.1.050Effective Date

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

Prior Codifications

- * §PHS.3.1.050 was formerly codified as X LCOTCL §1.105

PHS.3.1.060Severability and Non-Liability

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

Prior Codifications

- * §PHS.3.1.060 was formerly codified as X LCOTCL §1.106

PHS.3.1.070Exclusive Remedy

Exclusion and removal does not prevent, negate or exclude the use of any other remedy or penalty that is otherwise provided by this Code or other governing federal, state or tribal law.

Prior Codifications

- * §PHS.3.1.070 was formerly codified as X LCOTCL §1.107

PHS.3.1.080 Interpretation

The provisions of this ordinance:

- (a) Shall be liberally construed in favor of the Tribe;
- (b) Shall not be deemed a limitation or repeal of any other tribal power or authority.

Prior Codifications

- * §PHS.3.1.080 was formerly codified as X LCOTCL §1.108

Subchapter PHS.3.2 General Definitions



PHS.3.2.010 General Definitions PHS.3.2-1

PHS.3.2.010 General Definitions

Any term not defined in this section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(a) **"Exclusion and Removal"** means the temporary or permanent expulsion of a nonmember from within the boundaries of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation.

(b) **"False Representation"** means a false or wrongful representation regarding a material fact made with the knowledge or belief of its inaccuracy with the intention of another relying on it and suffering harm as a result.

(c) **"Fraud"** means a person using deceit, trickery or breach of confidence perpetrated for profit or to gain an unfair or dishonest advantage.

(d) **"Nonmember"** or **"Non-Tribal Member"** means a person is not currently enrolled in the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(e) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(f) **"Tribal Member"** means an enrolled member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(g) **"Tribe"** means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

Prior Codifications

* §PHS.3.2.010 was formerly codified as X LCOTCL §1.201

**Subchapter PHS.3.3
Exclusion and Removal Policy and Procedure**



PHS.3.3.010 Petition PHS.3.3-1
 PHS.3.3.020 Personal Appearance PHS.3.3-1
 PHS.3.3.030 Grounds for Exclusion and Removal PHS.3.3-1
 PHS.3.3.040 Standard of Proof PHS.3.3-3
 PHS.3.3.050 Order for Exclusion and Removal PHS.3.3-3
 PHS.3.3.060 Enforcement of Orders of Exclusion and Removal PHS.3.3-3
 PHS.3.3.070 Appeals PHS.3.3-4

PHS.3.3.010 Petition

An exclusion and removal action shall be commenced by any member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Band or Tribal Governing Board upon the presentment of an oral or written Petition for Exclusion and Removal in an open meeting of the Tribal Governing Board. The Petition shall include the name of the nonmember sought to be removed and a statement of the reasons which individually or collectively are justifiable cause for exclusion and removal.

Prior Codifications

* §PHS.3.3.010 was formerly codified as X LCOTCL §1.301

PHS.3.3.020 Personal Appearance

No nonmember considered for possible exclusion or removal has any right or privilege to personally appear before the Tribal Governing Board in either the initial consideration of a Petition for Exclusion and removal or in any subsequent appeal of an Order for Exclusion and Removal before the Tribal Governing Board. However, the Tribal Governing Board may, in its discretion, grant a nonmember the right to appear before it in either proceeding.

Prior Codifications

* §PHS.3.3.020 was formerly codified as X LCOTCL §1.302

PHS.3.3.030 Grounds for Exclusion and Removal

Upon consideration of a Petition, the Tribal Governing Board may enter an Order of Exclusion and Removal if it finds that it is in the best interests of the Band to do so. The Tribal Governing Board may consider whether the nonmember's conduct threatens or has some direct effect on the political integrity, institutional process, economic security, or health, safety or welfare of the Band, its members or Reservation residents. In determining whether to issue an Order of Exclusion and Removal, the Tribal Governing Board may

consider the number and pattern of acts committed and the history, circumstances and/or significance of each act. Acts for which a nonmember may be excluded and removed from the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation may include but are not limited to the following:

(a) Doing or attempting to do any act upon the Reservation which unlawfully threatens the peace, health, safety, morals or general welfare of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Band, its members, Reservation residents, or other persons;

(b) Any act causing physical loss or damage of any nature to the property of the Band, any member or Reservation resident;

(c) Entering an area in violation of any order of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians or any entity thereof designating such area as closed;

(d) Failing or refusing to pay any taxes, rents or other charges justly due the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Band or an entity

thereof, after reasonable notice and an opportunity to pay, unless such charges or fees are related to an interest in real property;

(e) Mining, prospecting, cutting timber or vegetation or other use, abuse, taking of or damage to tribal property without authorization;

(f) Committing a fraud, to wit: meaning a false representation of a matter of material fact by words, conduct, false or misleading allegations, or by concealment of a fact which should have been disclosed which is intended to and does in fact deceive another to his legal injury or detriment.

(g) Trading or conducting business within the Reservation in violation of tribal law;

(h) Hunting, fishing or trapping without lawful authority or permission or in violation of tribal or federal law;

(i) Disturbing or excavating items, sites or locations of religious, historic or scientific significance without the authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians or in violation of tribal or federal law;

(j) Failing to obey an order of the Tribal Court; or

(k) Committing any criminal offense as defined by state, federal or tribal law.

Prior Codifications

* §PHS.3.3.030 was formerly codified as X LCOTCL §1.303

PHS.3.3.040 Standard of Proof

In considering whether justifiable cause exists to exclude and remove a nonmember from the Reservation, the Tribal Governing Board must be satisfied by a preponderance of the evidence given the totality of the circumstances.

Prior Codifications

* §PHS.3.3.040 was formerly codified as X LCOTCL §1.304

PHS.3.3.050 Order for Exclusion and Removal

Upon finding that it is in the best interests of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the Tribal Governing Board shall issue an Order for Exclusion and Removal. If the nonmember is not present at such meeting or if a decision is not rendered until after the meeting, appropriate notice shall be served on the nonmember, informing him or her of the action of the Tribal Governing Board. Such notice shall include a copy of the Order for Exclusion and Removal issued pursuant to this ordinance. The Order shall include the reasons for the decision, the terms of the exclusion (including duration), and the nonmember's appeal rights (including any conditions under which the nonmember may return for an appeal of the Order). An Order issued pursuant to this ordinance shall remain in force for the duration provided in the Order or, unless the Order specifically provides otherwise, until revoked or modified by the Tribal Governing Board.

Prior Codifications

* §PHS.3.3.050 was formerly codified as X LCOTCL §1.305

PHS.3.3.060 Enforcement of Orders of Exclusion and Removal

Upon the issuance of an Order for Exclusion and Removal, the Tribal Governing Board shall deliver said Order to any qualified law enforcement officer, who shall thereupon serve notice upon the nonmember and direct the nonmember to obey the Order. If, after the time specified in the Order, the nonmember does not comply with the Order, the Tribal Governing Board shall request relief through the appropriate federal, state or tribal courts:

- (a) Referring the matter to the Tribal or other prosecutor for appropriate action, including prosecution or other action authorized under any applicable tribal, federal or state law;
- (b) Directing any law enforcement officer to remove the nonmember from the Reservation covered by the Order at the nonmember's expense;
- (c) Directing law enforcement to remove the nonmember bodily, using only so much force as is reasonable and necessary to effect the removal; and

(d) Directing any law enforcement officer to prevent the nonmember from reentry onto any Reservation lands covered by the Order for so long as the Order remains in effect.

Prior Codifications

* §PHS.3.3.060 was formerly codified as X LCOTCL §1.306

PHS.3.3.070 Appeals

Any nonmember to whom an Order for Exclusion and Removal has been issued pursuant to this ordinance may appeal such Order to the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Governing Board. The nonmember must apply to the Tribal Governing Board in writing within ten (10) days of his or her receipt of said order, requesting revocation or amendment of said Order. Upon receipt of such a request, the Tribal Governing Board shall call a special meeting for the purpose of allowing the nonmember to address the Tribal Governing Board regarding the reasons for constituting the justifiable cause for his or her exclusion and removal and to show cause why he or she should not be excluded and removed from the Reservation. Unless the Tribal Governing Board has specifically granted the nonmember the right to personally appear before it in the special meeting, the nonmember must set forth his or her position, arguments and proofs in writing and provide same to the Tribal Governing Board in advance of the special meeting. Appropriate notice of such a special meeting shall be delivered to the nonmember not less than five (5) days prior to the meeting. Decisions of the Tribal Governing Board on appeal shall be final.

Prior Codifications

* §PHS.3.3.070 was formerly codified as X LCOTCL §1.307

**Chapter PHS.7
Tattoo and Body Piercing Code of the Lac Courte Oreilles Band of Lake Superior Chippewa
Indians**



PHS.7.1 Lac Courte Oreilles Tattoo and Body Piercing Ordinance PHS.7.1-1

**Subchapter PHS.7.1
Lac Courte Oreilles Tattoo and Body Piercing Ordinance**



PHS.7.1.010 Title PHS.7.1-2

PHS.7.1.020 Authority..... PHS.7.1-2

PHS.7.1.030 Purpose..... PHS.7.1-2

PHS.7.1.040 Jurisdiction..... PHS.7.1-2

PHS.7.1.050 Construction PHS.7.1-3

PHS.7.1.060 Severability PHS.7.1-3

PHS.7.1.070 Repealer PHS.7.1-3

PHS.7.1.080 Definitions PHS.7.1-3

PHS.7.1.090 Approved Comparable Compliance PHS.7.1-5

PHS.7.1.100 Inspections and Evaluations PHS.7.1-5

PHS.7.1.110 Licenses PHS.7.1-6

PHS.7.1.120 Establishment License PHS.7.1-6

PHS.7.1.130 Practitioner License..... PHS.7.1-6

PHS.7.1.140 Approval of Licenses PHS.7.1-7

PHS.7.1.150 Display of License..... PHS.7.1-8

PHS.7.1.160 Change of Operator..... PHS.7.1-8

PHS.7.1.170 Records..... PHS.7.1-8

PHS.7.1.180 Patron Limitations..... PHS.7.1-9

PHS.7.1.190 Patron Records..... PHS.7.1-9

PHS.7.1.200 Physical Facilities and Environment PHS.7.1-10

PHS.7.1.210 Operator PHS.7.1-11

PHS.7.1.220 Licensed Practitioners PHS.7.1-11

PHS.7.1.230 Absence of Skin Condition..... PHS.7.1-11

PHS.7.1.240 Alcohol and Drugs..... PHS.7.1-12

PHS.7.1.250 Personal Cleanliness..... PHS.7.1-12

PHS.7.1.260 Clothing PHS.7.1-12

PHS.7.1.270 Hygienic Practices PHS.7.1-12

PHS.7.1.280 Physical Examinations PHS.7.1-13

PHS.7.1.290 Equipment PHS.7.1-13

PHS.7.1.300 Cleaning..... PHS.7.1-14

PHS.7.1.310 Sterilization..... PHS.7.1-15

PHS.7.1.320 Preparation and Care of Site PHS.7.1-15

PHS.7.1.330 Temporary Establishments..... PHS.7.1-16

PHS.7.1.340 Access..... PHS.7.1-17

PHS.7.1.350 Order to Correct Violations PHS.7.1-18

PHS.7.1.360 Order to Deal with an Immediate Danger to Public Health PHS.7.1-18
PHS.7.1.370 Enforcement Authority PHS.7.1-19
PHS.7.1.380 Issuance of Citations PHS.7.1-19
PHS.7.1.390 Forfeiture PHS.7.1-20
PHS.7.1.400 Appeals..... PHS.7.1-20

PHS.7.1.010Title

This ordinance shall be referred to as the Lac Courte Oreilles Tattoo and Body Piercing Ordinance.

Prior Codifications

* §PHS.7.1.010 was formerly codified as LCOTCC §7.1

PHS.7.1.020Authority

LCO possesses the inherent sovereign authority to regulate its territory, and Article V, Section 1(s) of the LCO constitution empowers the tribal governing board to "promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers."

Prior Codifications

* §PHS.7.1.020 was formerly codified as LCOTCC §7.2

PHS.7.1.030Purpose

The purpose of this law is to regulate tattooists, tattoo establishments, body piercers and body piercing establishments under the jurisdiction of the Tribe in order to protect the health and safety of the public from unsanitary and unlicensed practice by tattooists and body piercers within the Reservation boundaries.

Prior Codifications

* §PHS.7.1.030 was formerly codified as LCOTCC §7.3

PHS.7.1.040Jurisdiction

Consistent with Chapter 103 of the LCO Tribal Court Code of 2004, the LCO tribal court shall have jurisdiction over cases arising under this ordinance limited solely by the constitution and federal law.

Prior Codifications

* §PHS.7.1.040 was formerly codified as LCOTCC §7.4

PHS.7.1.050 Construction

This ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

Prior Codifications

- * §PHS.7.1.050 was formerly codified as LCOTCC §7.5

PHS.7.1.060 Severability

If any provision of this ordinance, or the application thereof to any person, legal entity or circumstance is held invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this ordinance.

Prior Codifications

- * §PHS.7.1.060 was formerly codified as LCOTCC §7.6

PHS.7.1.070 Repealer

This ordinance supersedes all prior tattoo and body piercing laws, codes, ordinances or regulations of LCO.

Prior Codifications

- * §PHS.7.1.070 was formerly codified as LCOTCC §7.7

PHS.7.1.080 Definitions

Any term not defined in this section shall be given its ordinary meaning, and the below terms shall have the following meanings, except where the context indicates otherwise:

(a) "Antiseptic" means a chemical that kills or inhibits the growth of organisms on skin or living tissue;

(b) "Autoclave" means an apparatus that is registered and listed with the federal food and drug administration for sterilizing articles by using superheated steam under pressure;

(c) "Body pierce" or "body piercing" means to perforate, or perforating, any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing;

(d) "Body piercer" means a person who performs body piercing on another person at that person's request;

(e) "Body piercing establishment" means the premises where a body piercer performs body piercing;

(f) "Cleaning" means the removal of foreign material from objects, normally accomplished with detergent, water and mechanical action;

(g) "Division" means an agency designated by the Tribe's executive administrator, which is authorized to make investigations or inspections of tattooists, body piercers, tattoo establishments and body piercing establishments and recommend to the Department whether an establishment or practitioner be licensed or is in compliance with the requirements of this law;

(h) "Disinfectant" means a chemical that is capable of destroying disease-causing organisms on inanimate objects, with the exception of bacterial spores;

(i) "Establishment" means a building, structure, area or location where tattooing and/or body piercing is performed;

(j) "Hot water" means water at a temperature of 110°F or higher;

(k) "Department" means the Licensing Department, or any other department of the Tribe, with the authority to implement, administer and enforce this law;

(l) "Operator" means the owner or person responsible to the owner for the operation of a tattoo or body piercing establishment;

(m) "Patron" means a person receiving a tattoo or body piercing;

(n) "Practitioner" means a tattooist or body piercer;

(o) "Reservation" means all lands and waters within the exterior boundaries of the LCO reservation in Wisconsin, as established by Secretarial Order March 1, 1873, and any lands or waters or interests therein which may be acquired outside of the 1873 reservation by or on behalf of LCO, including the 1200 acres of Farm Services Administration land outside the 1873 reservation boundary held by the United States, except as may otherwise be provided by federal law;

(p) "Sharp waste" means waste that consists of medical equipment or clinical laboratory articles that may cause punctures or cuts, such as hypodermic needles, syringes with attached needles and lancets, whether contaminated, unused or disinfected;

(q) "Single-use" means a product or item that is disposed of after one use, such as a cotton swab, a tissue or paper product, a paper or soft plastic cup, or gauze or other sanitary covering;

(r) "Sterilization" means the killing of all organisms and spores through use of an autoclave operated at a minimum of 250°F (121°C) at pressure of at least fifteen (15) pounds per square inch for not less than thirty (30) minutes or through use of an autoclave approved by the Division that is operated at different temperature and pressure levels but is equally effective in killing all organisms and spores;

(s) "Tattoo," as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce a permanent mark or figure through the skin;

(t) "Tattoo establishment" means the premises where a tattooist applies a tattoo to another person;

(u) "Tattooist" means a person who tattoos another person at that person's request;

(v) "Tempered water" means water ranging in temperature from 85°F to less than 110°F;

(w) "Temporary establishment" means a single building, structure, area or location where a tattooist or body piercer performs tattooing or body piercing for a maximum of seven (7) consecutive days in conjunction with a single event or celebration;

(x) "Tribe" or "Tribal" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians;

(y) "Universal precautions" means to treat everyone's blood and other bodily fluids as infectious at all times.

Prior Codifications

* §PHS.7.1.080 was formerly codified as LCOTCC §7.8

PHS.7.1.090 Approved Comparable Compliance

When strict adherence to a provision of this Ordinance is impractical for a particular tattooist, tattoo establishment, body piercer or body piercing establishment, the Department may approve a modification in that requirement for that practitioner or establishment if the Division provides the Department with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety or welfare.

Prior Codifications

* §PHS.7.1.090 was formerly codified as LCOTCC §7.9

PHS.7.1.100 Inspections and Evaluations

(a) The Division shall conduct investigations and inspections of practitioners and establishments. The agents of the Division who make recommendations on licenses and conduct investigations or inspections of practitioners and establishments shall be recognized by the National Environmental Health Association as a Registered Environmental Health Specialist, also known as a Registered Sanitarian.

(b) Pre-Inspection Fee. The operator of a new permanent establishment or a new operator of an existing permanent establishment shall pay a pre-inspection fee for the

inspection of the establishment of \$75. The fee shall not be returned if the establishment fails the inspection.

(c) Annual Inspections. All permanent establishments shall pay an annual inspection fee for the inspection of the establishment of \$50.

Prior Codifications

* §PHS.7.1.100 was formerly codified as LCOTCC §7.10

PHS.7.1.110 Licenses

Except as provided for under Section PHS.7.1.330(b), the Department shall issue licenses to tattooists, tattoo establishments, body piercers and body piercing establishments, based on the recommendation of the Division.

Prior Codifications

* §PHS.7.1.110 was formerly codified as LCOTCC §7.11

PHS.7.1.120 Establishment License

(a) Requirement. No person may operate an establishment unless he or she has obtained a license for the establishment from the Department by application made upon a form furnished by the Department. An application submitted to the Department shall be accompanied by the fee required under Section PHS.7.1.120(b) and Section PHS.7.1.100(b) or Section PHS.7.1.100(c), if applicable. The annual license fee shall be returned in full if the application is denied.

(b) Annual Fees. The operator of an establishment shall pay an annual license fee to the Department as follows:

- (1) For a body piercing establishment, \$100.
- (2) For a tattoo establishment, \$100.
- (3) For a combined tattoo and body piercing establishment, \$150.

(c) Temporary Establishments. For a temporary tattoo or body piercing establishment or a temporary combined tattoo and body piercing establishment, the operator of the establishment shall pay a fee of \$100 per application. The fee shall not be returned if the establishment fails the inspection.

Prior Codifications

* §PHS.7.1.120 was formerly codified as LCOTCC §7.12

PHS.7.1.130 Practitioner License

(a) Requirement. No person may tattoo or body pierce another person, use or assume the title of tattooist or body piercer or designate or represent himself or herself as a

tattooist or body piercer unless the person has obtained a practitioner license from the Department by application made upon a form furnished by the Department. An application submitted to the Department shall be accompanied by the fee required under Section PHS.7.1.130(d). The fee shall be returned in full if the application is denied.

(b) Except as provided for in (c) and Section PHS.7.1.330(e), in order to be licensed as a practitioner, a tattooist or body piercer shall:

(1) provide proof of successful completion of a Bloodborne Pathogen training or a Universal Precautions training or proof that he or she will be taking the necessary training within ninety (90) days after submitting his or her application for a license; and

(2) provide proof that he or she has received a vaccination against hepatitis B (BHV) or provide a written statement with his or her application stating that he or she declines the vaccination.

(c) A practitioner who has had his or her practitioner license revoked, whether under this law or under another jurisdiction, within the two (2) years immediately preceding the application date may be denied a license.

(d) Annual Fees. A person who wishes to practice as a tattooist or body piercer in a permanent establishment shall pay an annual fee to the Department as follows:

(1) For a body piercer, \$50.

(2) For a tattooist, \$50.

Prior Codifications

* §PHS.7.1.130 was formerly codified as LCOTCC §7.13

PHS.7.1.140 Approval of Licenses

(a) Except as provided for under Section PHS.7.1.330(b), within sixty (60) days after receiving a completed application for a license, whether for an establishment or practitioner, the Division shall submit to the Department a written recommendation to approve or deny the application. The Department must approve or deny the application within thirty (30) days after receiving the written recommendation from the Division. If the Department approves an application, a license shall be issued. If the Department denies an application, the Department shall:

(1) give the applicant reasons, in writing, for the denial;

(2) provide information about how the applicant may appeal the decision under Section PHS.7.1.400(b).

(b) The Division shall not recommend the Department issue a license to a new tattoo or body-piercing establishment or a new operator at an existing establishment without completing a prior inspection of the establishment to ensure that the establishment complies with the requirements of this law.

Prior Codifications

* §PHS.7.1.140 was formerly codified as LCOTCC §7.14

PHS.7.1.150 Display of License

The operator of a tattoo or body piercing establishment shall conspicuously display in the establishment the licenses issued by the Department for the establishment and for all practitioners working in the establishment.

Prior Codifications

* §PHS.7.1.150 was formerly codified as LCOTCC §7.15

PHS.7.1.160 Change of Operator

The operator of a tattoo or body piercing establishment shall promptly notify the Department of his or her intention to cease operations and shall supply the Department with the name and mailing address of any new operator. An establishment license is not transferrable. A new operator shall submit an application under Section PHS.7.1.120 for a new establishment license.

Prior Codifications

* §PHS.7.1.160 was formerly codified as LCOTCC §7.16

PHS.7.1.170 Records

The Department shall maintain a record pertaining to each applicant for a license under this law and each holder of a license issued under this law, including temporary licenses. The record shall include all information received by the Department that is relevant to the approval or denial of the application, the issuance of the license and any limitations, suspensions or revocations of the license(s). The public shall have access to the following information for any person who receives a license under this law:

- (a) Name of the person holding the license, including any former names;
- (b) Type of license the person is issued;
- (c) License number;
- (d) Expiration date of the license; and

(e) Any orders or penalties issued under this law to the license holder and upheld on appeal.

Prior Codifications

* §PHS.7.1.170 was formerly codified as LCOTCC §7.17

PHS.7.1.180 Patron Limitations

(a) Consent. A tattooist or body piercer may not tattoo or body pierce a patron without first obtaining the signed, informed consent of the person on a form approved by the Division.

(b) Minors.

(1) No person under sixteen (16) years of age may be body pierced.

(2) No person age sixteen (16) or seventeen (17) may be body pierced unless an informed consent form has been signed by his or her parent or legal guardian in the presence of the operator.

(3) No person under eighteen (18) years of age may be tattooed except by a physician in the course of the physician's professional practice.

(4) A body piercing establishment shall post a notice in a conspicuous place in the establishment stating that it is illegal to body pierce a person under the age of eighteen (18) without the signed, informed consent of that person's parent or legal guardian.

(5) A tattoo establishment shall post a sign in a conspicuous place in the establishment stating that no person under the age of eighteen (18) may be tattooed.

(c) Barriers to Procedure. A tattooist or body piercer may not tattoo or body pierce any of the following:

(1) A person who appears to be under the influence of alcohol or a mind-altering drug.

(2) A person who has evident skin lesions or skin infections in the area of the procedure.

Prior Codifications

* §PHS.7.1.180 was formerly codified as LCOTCC §7.18

PHS.7.1.190 Patron Records

Every tattooist and body piercer shall keep a record of each patron. A patron's record shall include the patron's name, address, age and consent form, the name of the practitioner doing the procedure and any adverse effects arising from the procedure. A

patron's record shall be retained for a minimum of three (3) years following completion of the procedure.

Prior Codifications

* §PHS.7.1.190 was formerly codified as LCOTCC §7.19

PHS.7.1.200 Physical Facilities and Environment

(a) Floors in the area where tattoo or body piercing procedures are performed shall be constructed of smooth, durable and non-porous material and shall be maintained in a clean condition and in good repair. Carpeting is prohibited.

(b) Walls and ceilings in the area where tattoo and body piercing procedures are performed shall be light-colored, smooth and easily cleanable.

(c) Tattoo and body-piercing application areas shall maintain a minimum illumination of fifty (50) footcandles.

(d) The establishment and all facilities used in connection with the establishment shall be maintained in a clean, sanitary and vermin-free condition.

(e) Tattoo and body piercing areas shall be completely separated from any living quarters by floor-to-ceiling partitioning and solid doors which are kept closed during business hours. A direct outside entrance to the tattoo or body piercing establishment shall be provided.

(f) All tattoo and body piercing establishments shall have a public toilet and hand washing facility which is separated from any living area. Toilet room fixtures shall be kept clean and in good repair. An easily cleanable covered waste receptacle shall be provided in the toilet room.

(g) At least one (1) hand washing facility shall be conveniently located in the tattoo or body piercing area, in addition to what is provided in the toilet room. Anti-bacterial soap in a dispenser and single-service towels for drying hands shall be provided at all hand washing facilities. Hot and cold potable water under pressure shall be available at all hand washing facilities, except that tempered water rather than hot water may be provided.

(h) Easily cleanable waste containers with non-absorbent, durable plastic liners shall be used for disposal of all tissues, towels, gauze pads and other similar items used on a patron. Infectious waste, including sharps waste, shall be stored and disposed of in a manner approved by the Division.

(i) A panel or other barrier of sufficient height and width to effectively separate a patron on whom a procedure is being performed from any unwanted observers or waiting patrons shall be in place or readily available at the patron's request.

(j) No smoking or consumption of food or drink is permitted in the area where a tattoo or body piercing procedure is performed, except that patrons may consume a non-alcoholic beverage during the procedure.

(k) No animals, except for those that provide services to persons with disabilities, are permitted in a tattoo or body piercing establishment.

Prior Codifications

- * §PHS.7.1.200 was formerly codified as LCOTCC §7.20

PHS.7.1.210 Operator

An operator shall be present at an establishment at all times during its business hours. The operator shall have the following information available at the establishment for review by the Division at any time:

(a) contract or agreement for the disposal of sharps waste and/or other infectious or regulated waste;

(b) spore test log and test results;

(c) patron records for the preceding three (3) years; and

(d) the practitioners of the establishment, including their names, addresses, phone numbers and licenses.

Prior Codifications

- * §PHS.7.1.210 was formerly codified as LCOTCC §7.21

PHS.7.1.220 Licensed Practitioners

No operator shall employ a practitioner who does not have a valid license issued by the Department.

Prior Codifications

- * §PHS.7.1.220 was formerly codified as LCOTCC §7.22

PHS.7.1.230 Absence of Skin Condition

No tattooist or body piercer with an exposed rash, skin lesion or boil may engage in the practice of tattooing or body piercing.

Prior Codifications

- * §PHS.7.1.230 was formerly codified as LCOTCC §7.23

PHS.7.1.240 Alcohol and Drugs

No tattooist or body piercer may work while under the influence of alcohol or a mind-altering drug.

Prior Codifications

- * §PHS.7.1.240 was formerly codified as LCOTCC §7.24

PHS.7.1.250 Personal Cleanliness

(a) Tattooists and body piercers shall thoroughly wash their hands and the exposed portions of their arms with dispensed soap and tempered water before and after each tattoo or body piercing procedure and more often as necessary to keep them clean.

(b) Tattooists and body piercers shall dry their hands and arms with individual single-service towels.

(c) Tattooists and body piercers shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices during procedures.

Prior Codifications

- * §PHS.7.1.250 was formerly codified as LCOTCC §7.25

PHS.7.1.260 Clothing

All tattooists and body piercers shall wear clean, washable outer clothing.

Prior Codifications

- * §PHS.7.1.260 was formerly codified as LCOTCC §7.26

PHS.7.1.270 Hygienic Practices

(a) When preparing the skin and during a procedure, a tattooist or body piercer shall wear non-absorbent gloves which shall be disposed of after completing the procedure.

(b) If interrupted during a procedure, a tattooist or body piercer shall rewash his or her hands and put on new gloves if the interruption required use of hands.

(c) Tattooists shall use single-use plastic covers to cover spray bottles or other reusable accessories to minimize the possibility of transmitting body fluids or disease during application of tattoos to successive patrons.

(d) If the patron's skin is to be shaved, the skin shall be washed with a cleansing, medicated soap before shaving. Disposable-type razors shall be for single-use only and disposed of in a manner approved by the Division. Electric razors used for skin preparation prior to a procedure shall have screens cleaned and disinfected between patron use. Reusable blade holders shall be sterilized after each use. Disposable blade holders shall be for single-use only.

(e) Body piercing needles shall be disposable, sterile and for single-patron use only. Body piercing jewelry shall be cleaned, individually packaged and sterilized prior to use.

(f) Needles, bars and tubes shall be constructed in a manner that permits easy cleaning and sterilizing. Needles shall be used on only one (1) patron and discarded after use. Needles may be reused on the same patron by rinsing them under running tap water followed by rinsing them in an antiseptic.

Prior Codifications

* §PHS.7.1.270 was formerly codified as LCOTCC §7.27

PHS.7.1.280 Physical Examinations

The Division may require a practitioner to submit to a practicing physician for a physical examination whenever the practitioner is suspected of having any infectious or contagious disease that may be transmitted by tattooing or body piercing. The expense of the physical exam shall be paid by the practitioner. Any practitioner notified to appear for a physical examination shall immediately cease working as a tattooist and/or body piercer until he or she receives a certificate from a practicing physician that he or she is not inflicted with any infectious or contagious condition that may be transmitted by the practice of tattooing or body piercing.

Prior Codifications

* §PHS.7.1.280 was formerly codified as LCOTCC §7.28

PHS.7.1.290 Equipment

(a) All surfaces, counters and general-use equipment in the tattoo or body piercing area shall be cleaned and disinfected before a patron is seated. The operating table, chair and supply tables shall be constructed of a material capable of being easily and thoroughly cleaned.

(b) All tattoo establishments shall have clean towels, washcloths and disposable paper towels.

(c) A clean towel and washcloth shall be used for each patron.

(d) Clean towels and washcloths shall be stored in a closed, dust-proof container. Soiled towels and washcloths shall be stored in an approved covered container.

(e) All inks and pigments shall be obtained from sources generally recognized as safe and shall be sterilized before use. Information indicating the sources of all inks and pigments shall be available to the Division upon request. Sterile single-use or sterile individual containers of pigment or ink shall be used for each patron. No pigment or ink in which needles were dipped may be used on another patron. Pigment and ink cups shall be for single-patron use. All bulk materials used for the procedure shall be dispensed with single-

use utensils. The remainder of dispensed portions and the cups shall be disposed of after application.

(f) All tattoo establishments shall be equipped with an autoclave which is in good working order and which is manufactured with temperature and pressure gauges marked and visible on the outside of the unit.

(g) Acetate tattoo stencils shall be single-use. The substance used for applying stencils shall be dispensed from a single-use disposable container or with a sterile tongue blade or sterile applicator stick which shall be discarded after each use.

Prior Codifications

* §PHS.7.1.290 was formerly codified as LCOTCC §7.29

PHS.7.1.300 Cleaning

(a) After each use, tattooing and body-piercing equipment shall be cleaned to remove blood and tissue residue before sterilization. This may be done with an ultrasonic cleaner or with a probe, needles or brush able to enter the smallest opening of the equipment. After cleaning, equipment shall be rinsed under fresh running tap water.

(b) Reusable equipment shall be placed in a covered stainless steel container of cleaning or disinfectant solution until it can be cleaned and sterilized.

(c) All containers holding contaminated needles, tubes, reusable body-piercing equipment and container lids shall be cleaned and disinfected at least daily.

(d) The tattoo machine shall be cleaned and disinfected before each use.

(e) Gloved personnel shall clean needles and tubes prior to sterilization by doing all of the following:

(1) Manually pre-cleaning the items with care taken to ensure removal of residue; thoroughly rinsing the items with warm water and then draining the water; cleaning the items by soaking them in a protein-dissolving detergent-enzyme cleaner used according to manufacturer's instructions; and cleaning the items further in an ultrasonic cleaning unit which operates at forty (40) to sixty (60) hertz and is used according to the manufacturer's instructions.

(2) Rinsing and drying the items.

(f) Prior to autoclaving, all equipment shall be packaged either individually or in quantities appropriate for individual procedures. Packages shall be identifiable and dated.

Prior Codifications

* §PHS.7.1.300 was formerly codified as LCOTCC §7.30

PHS.7.1.310 Sterilization

(a) Equipment requiring sterilization shall be pressure-sterilized at the establishment in an autoclave and in accordance with the manufacturer's instructions. The equipment may be wrapped with an approved paper or plastic or placed in glass or plastic tubes. All packages or containers shall be marked with temperature recording tape or labels and dated with the date of sterilization.

(b) Each batch of sterilized equipment shall be monitored for sterilization by use of heat-sensitive indicators capable of indicating approximate time and temperature achieved.

(c) Autoclaves shall be spore-tested at least monthly. Spore kill test effectiveness shall be conducted by an independent laboratory.

(d) Sterilized equipment shall be wrapped or covered and stored in a manner which will ensure that it will remain sterile until used. All sterilized needles and other equipment not individually wrapped shall be stored in a sterilized and covered glass container or in a stainless steel tray and submerged in an approved sterilizing and disinfecting solution. The Division shall supply all establishments licensed under this ordinance with a list of approved sterilizing and disinfecting solutions.

(e) Each tattoo or body piercing establishment shall maintain sterilization records including spore tests for at least one (1) year from the date of the last entry, which shall include the following information:

- (1) Date of sterilization.
- (2) Name of the person operating the equipment.
- (3) Result of heat-sensitive indicator.

(f) Sterilized equipment shall be re-sterilized if the package is opened, damaged or becomes wet.

(g) Autoclaving is the only allowable method of sterilization.

Prior Codifications

- * §PHS.7.1.310 was formerly codified as LCOTCC §7.31

PHS.7.1.320 Preparation and Care of Site

(a) Before beginning a procedure, the tattooist or body piercer shall clean the skin area for the tattooing or piercing and then prepare it with an antiseptic. The solution shall be applied with single-use cotton, gauze or toweling.

(b) After a tattooist completes work on any patron, the tattooed area shall be washed with antiseptic and covered with a dry, sterile gauze dressing.

(c) After completing a procedure, the tattooist or body piercer shall provide the patron with oral and written instructions on the care of the tattoo or piercing.

Prior Codifications

* §PHS.7.1.320 was formerly codified as LCOTCC §7.32

PHS.7.1.330 Temporary Establishments

(a) In addition to the requirements under Section PHS.7.1.010 to Section PHS.7.1.320 that apply to all tattoo and body piercing establishments, the requirements found under this section apply specifically to temporary establishments.

(b) An agent of the Division who is a Registered Sanitarian may issue temporary establishment and temporary practitioner licenses without the approval of the Department.

(c) No temporary establishment may be operated without a temporary establishment license. An application for a temporary establishment license shall be made under Section PHS.7.1.120 and shall be accompanied by the fee required under Section PHS.7.1.120(c).

(d) No temporary establishment license shall be issued without a prior inspection, however, a pre-inspection fee as required under Section PHS.7.1.100(b) shall not be charged.

(e) A practitioner in a temporary establishment shall not tattoo or body pierce another person without obtaining a temporary practitioner's license, but shall not be required to pay the practitioner license fee under Section PHS.7.1.130(d).

(f) A practitioner in a temporary establishment may be issued a temporary practitioner license if he or she:

(1) has sufficient proof of a valid permanent license, except as provided for under (b); and

(2) is tattooing and/or body piercing in a licensed temporary establishment.

(g) A practitioner in a temporary establishment who is not required to have a license where he or she permanently practices tattooing and/or body piercing may meet the requirements of (f)(1) if he or she demonstrates knowledge of infection control techniques, application of universal precautions and the requirements of this law by:

(1) complying with this law.

(2) providing proof of a valid certificate for the successful completion of a Bloodborne Pathogen training or Universal Precautions training; or

(3) responding correctly to the inspector's questions as they relate to the specific operation of the temporary establishment. This includes explaining:

(A) the significance of universal precautions;

(B) protective actions against bloodborne pathogens, including proper autoclave use; and

(C) the proper use of personal protective equipment.

(h) An establishment's temporary license along with the temporary license of each on-staff tattooist or body piercer shall be conspicuously displayed in the temporary establishment.

(i) The Division may deny a temporary establishment license or may revoke the license of a temporary establishment if the Division finds a violation of any provision of this law.

(j) A temporary establishment shall have all of the following:

(1) An approved toilet and hand washing facility.

(2) Potable water under pressure.

(3) Hot or tempered water for hand washing and cleaning.

(4) Connection to an approved sewage collection system.

Prior Codifications

* §PHS.7.1.330 was formerly codified as LCOTCC §7.33

PHS.7.1.340Access

An authorized employee(s) of the Division, upon presenting proper identification, shall be permitted to enter any tattoo or body-piercing establishment at any reasonable time to determine if the establishment and the practitioners are in compliance with this law. The Division's authorized employee(s) shall be permitted to examine the records of the establishment to obtain information about supplies purchased, received or used and information relating to patrons who received tattoos or body piercings.

Prior Codifications

* §PHS.7.1.340 was formerly codified as LCOTCC §7.34

PHS.7.1.350 Order to Correct Violations

(a) If upon inspection of a tattoo or body piercing establishment, it is discovered that the tattoo or body piercing establishment is not planned, equipped or operated or a practitioner is not licensed as required by this law, the Division shall notify the Department.

(b) Within five (5) days of receipt of the Division's findings, the Department shall issue a written notice of violation to the operator which shall include a list of violations, and an order that directs the operator to make specified changes that will bring the establishment into compliance with standards established in this Ordinance and that stipulates the time period within which compliance is to take place.

(c) If the order to correct violations is not carried out by the expiration of the time period stipulated in the order, the Division may direct that the Department issue an order suspending or revoking the license to operate the tattoo or body piercing establishment or the practitioner's license, or both.

(d) The operator may request, to the Division, an extension of time in order to comply which may be granted if determined reasonable by the agent of the Division. Only one such reasonable extension of time will be granted before Section PHS.7.1.350(c) may be enforced against the operator.

(e) An operator whose license has been suspended or revoked may reapply for a license after compliance and correction with the original notice of violation has been satisfied, but remains subject to penalties, loss of the original license fee, and must submit a new license fee to regain a license.

Prior Codifications

- * §PHS.7.1.350 was formerly codified as LCOTCC §7.35

PHS.7.1.360 Order to Deal with an Immediate Danger to Public Health

If there is reasonable cause to believe that any construction, sanitary condition, operation of the establishment or of equipment or a procedural practice creates an immediate danger to health, an employee of the Department upon the recommendation of the Division, without written notice, issue a temporary order to remove the immediate danger to health. The order shall take effect upon delivery to the operator or other person in charge of the tattoo or body piercing establishment and shall remain in effect for fourteen (14) days unless it is terminated by the Division or the Department by notice to the operator within that period or is kept in effect beyond that period. The order shall be limited to prohibiting specific procedures or methods of operation, or a combination of these, except that if a more limited order will not remove the immediate danger to health, the order may direct that all operations authorized by the license cease. If, before the temporary order expires, the Department determines that the immediate danger to health

does in fact exist and continues to exist, the temporary order shall remain in effect, and may be extended, with notification to the operator.

Prior Codifications

- * §PHS.7.1.360 was formerly codified as LCOTCC §7.36

PHS.7.1.370 Enforcement Authority

The Department shall have the primary responsibility and the authority to enforce this ordinance, subject to any necessary budgetary approval of the tribal governing board. In addition, the LCO Law Enforcement Department and any other law enforcement department or agency from which the department has sought assistance shall have the authority to enforce this ordinance in the performance of their duties.

Any person who willfully violates or obstructs the execution of this law for which no other penalty is prescribed, shall be fined not more than \$500. This shall include performing tattooing or body piercing without a license.

Prior Codifications

- * §PHS.7.1.370 was formerly codified as LCOTCC §7.37

PHS.7.1.380 Issuance of Citations

Any person authorized to enforce this ordinance may issue a citation when any violation of this ordinance occurs in the presence of the enforcement authority or the enforcement authority investigating a report of a violation of this ordinance finds probable cause to believe that a violation occurred, provided the citation shall state:

(a) the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered) and the section(s) of this ordinance that were violated;

(b) the date of the initial hearing before the LCO tribal court which shall be no sooner than ten (10) days after service of the notice;

(c) the amount of the fine which may be paid by the violator to the LCO tribal court in order to avoid the initial hearing; and

(d) that failure to pay the amount of the fine or appear before the LCO tribal court on the date set for hearing, shall result in entry of a default judgment and an award of relief in accordance with this ordinance.

Prior Codifications

- * §PHS.7.1.380 was formerly codified as LCOTCC §7.38

PHS.7.1.390 Forfeiture

(a) If the LCO tribal court finds that a violation of this ordinance has been committed, it may impose a forfeiture of not more than Five Thousand Dollars and 00/100 (\$5000.00). The LCO tribal court may also reduce or suspend any fine on the condition that the practitioner fully comply with the order or if the practitioner proves that the violation has been corrected.

(b) Any person who fails to pay any fine assessed by the LCO tribal court within thirty (30) days after the fine has been assessed and who fails to make other arrangements regarding payment of the fine, shall owe, in addition to the fine imposed, ten dollars (\$10.00) for each thirty (30) day period that the fine is overdue.

Prior Codifications

- * §PHS.7.1.390 was formerly codified as LCOTCC §7.39

PHS.7.1.400 Appeals

(a) Any order issued by the Division or the Department under this law shall inform the practitioner and/or operator of his or her right to appeal the order and any time limits associated with an appeal.

(b) Any operator or practitioner aggrieved by an action of the Division or the Department may file a notice of intent to appeal with the Tribal Court within three (3) days after the action is taken.

Prior Codifications

- * §PHS.7.1.400 was formerly codified as LCOTCC §7.40